

San Luis Obispo County Grand Jury



2005-2006 Final Report

San Luis Obispo County Grand Jury
P.O. Box 4910
San Luis Obispo, California 93403
Telephone: 805-781-5188
www.slocourts.net/grandjury/



The 2005-06 San Luis Obispo County Grand Jury



Hedy Damery, Foreperson



Sy Bensky, Pro-tem



Pat Albertini



Don Anderson



Diane Dell'Era



Anthony Flores



Theodore Gauldin



Gail Gresham



Joanna Hamburg



Sue Hartman



Lynne Levine



Doug Marks



Marguerite Maxwell



Val McClure



Dennis Palm



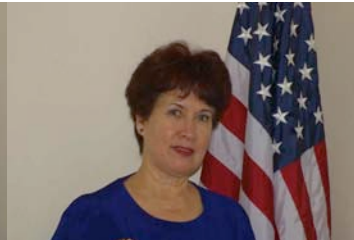
Kenneth Scotland



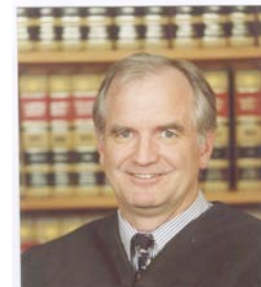
Marilyn Stein



Anthony Toomey



**Sylvia Martinez
Administrative Asst.**



**The Honorable Roger T. Picquet
Presiding Judge, Superior Court**

**San Luis Obispo County Grand Jury
2005-2006 FINAL REPORT**

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INTRODUCTORY LETTER

To the People of San Luis Obispo County:

June 2006

Each year in June, nineteen people are selected by the Superior Court from among citizen volunteers in San Luis Obispo County to serve for a full year as members of the Grand Jury. They come from all walks of life, bringing unique perspectives, interests and skills. Once sworn in, they begin training. During this period, they become acquainted, and, ideally, the kind of cohesive group, which allows for the flexibility needed to carry out their primary charge: to cast a 'spotlight' on local government.

Grand juries receive and respond to written complaints. They also carry out 'self-initiated' investigations, depending on the interests of the jurors. Underpinning each grand jury's work is the excellent support received from the Superior Court and county staff from the County Administrative Office, County Counsel, District Attorney, Auditor-Controller, and General Services Department. These agencies participate in training, provide technical and administrative support, cooperate in investigations and/or serve as consultants to the Grand Jury throughout the year.

Members of the 2005-06 Grand Jury were drawn from all areas of San Luis Obispo County, bringing diverse educational and professional experiences. The resulting mix of ideas and talents, combined with a high level of dedication and energy, produced reports of depth and scope. This was, also, a grand jury in which all members were computer literate.

This Grand Jury reached consensus early on that we wanted to improve relations with the media and gain additional coverage for reports. In this way, we were able to provide more timely and useful information to the public. Typically, when reports are published in a single document at the end of the year, only a few get media attention. A broad-based email group containing all local media outlets was established; each report was released as soon as it was completed, beginning in January. The response from local media was gratifying. We also began posting the reports on the grand jury's web site as each was released. Thanks to the skill of this year's foreperson pro-tem, our web site has been redesigned and is now much easier to navigate.

Many citizens are understandably uninformed about how a grand jury operates. The following text is taken from an op-ed column published in The SLO Tribune in April 2006. It is repeated here for the benefit of readers who wish to know how grand jury reports are generated, or who may have an interest in serving on a future grand jury.

When citizens of the county apply for grand jury duty, they are interviewed by a judge before their name is forwarded for inclusion in the annual grand jury lottery. Questions about ‘personal agenda’ are part of that interview process. After the random selection process is complete, the jurors are sworn in and instructed in their charge by the presiding judge.

Jurors take an oath, which binds them to confidentiality regarding any grand jury matters, not just during their term, but for the rest of their lives. Grand jury confidentiality is required by law, (California Penal Code Section 924.1), and any juror willfully violating this law is guilty of a misdemeanor. Grand juries conduct proceedings behind closed doors, exactly as the law requires, primarily for the protection of people who come to grand juries with complaints or who testify during investigations. Each juror must also complete and sign a Form 700, Statement of Economic Interest.

Once a new grand jury is seated, the jurors spend about six weeks in training with various county and court officials, including the District Attorney, County Counsel, County Auditor, County Administrator and the Superior Court’s Administrator and Jury Commissioner. Before jurors begin any investigations they also receive many hours of training on the grand jury handbook and attend an American Grand Jury Foundation workshop. Each grand jury sets up its own rules of proceeding and creates committees as appropriate for its scope of work. The current handbook and penal codes (including sections relevant to both civil and criminal grand juries) can be found on the grand jury’s web site at www.slocourts.net/grandjury/

After the jurors’ training is complete, usually by mid-August, they begin work by reviewing any complaints received and also hold a brainstorming session to identify areas of common interest that might be the subject of self-initiated investigations (as opposed to complaint-driven

investigations). Typically, a review is also done to learn what agencies of local government have not been looked at by prior grand juries in the recent past. In addition, each grand jury carries out inspections and reports on conditions in local prisons in the county.

The process of completing a grand jury report has a number of safeguards:

1. A committee must first develop an action plan, and present it to the full grand jury for review and approval. (Note: jurors with a conflict of interest are required to absent themselves from all activities on that topic of inquiry, and recuse themselves from all votes on the subsequent report.)
2. Once an investigation is complete, committees typically go through a number of drafts before bringing a final draft to the full grand jury for its review, input and eventual approval. This may take several passes.
3. The full grand jury must approve the final draft by at least 12 out of its 19 members.
4. As an extra precaution, the report is next forwarded to County Counsel for legal review and advice.
5. The report is then normally taken to the responsible government department for a review of the report's 'factual accuracy.' Input from this step is carefully considered and corrections are made as appropriate.
6. The final draft of the report is then submitted to the presiding judge of the Superior Court for review, and, subsequently, released.
7. When the grand jury's term is ended all of their files and documents are sealed by the court. Open investigations are never carried over from one grand jury to another.

Finally, while a report's findings are based on facts gathered by a grand jury, the conclusions and recommendations are the result of a grand jury's agreed-upon opinion and are presented as such for the consideration of the department or agency, which must respond within 60 days. No later than 90 days after the jury submits a final report, the governing body of the public agency must comment to the presiding judge of the Superior Court on the findings and recommendations in the report.


Serving as a member of a grand jury is not for everyone. There is a need for diversity in both education and experience, but mostly there is a need to attract people with an interest in how government works, a willingness to spend the time and energy to do a good job working as a member of a team, and a capacity to listen and keep an open mind until all the facts are in. It is both a challenging and rewarding experience to serve as a member of a grand jury. Each grand jury leaves its own unique mark on the life of our community. The members of the 2005-06 Grand Jury hope that readers find this Final Report both informative and thought-provoking.

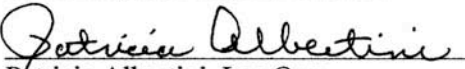
Special Acknowledgements

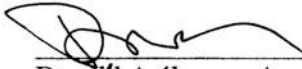
- The Grand Jury wishes to thank the members of our local and regional media outlets for their valuable assistance in publicizing our reports. Without their interest and support, only a fraction of the public would be aware of our work.
- We express our appreciation to former Presiding Judge Michael Duffy and current Presiding Judge Roger Picquet for their excellent guidance and support during this Grand Jury's term.
- We thank the staff members of local government agencies for their cooperation and assistance to the Grand Jury in carrying out our inquiries. The Grand Jury believes that the county agencies we reviewed this year are, on the whole, serving the public with efficiency and dedication.
- We thank AGP Video of Morro Bay for providing the Grand Jury, free of charge, tapes of the weekly Board of Supervisors' meetings.
- We express special thanks to Sylvia Martinez, Administrative Assistant to the Grand Jury, for her able and unfailingly cheerful support of all of us during the past year.


- And, finally, we thank those members of the public who took the time and trouble to send in their concerns and complaints to the Grand Jury during the past year. Citizen participation is the essence of good government.



Hedy Damery, Foreperson, Los Osos



Sy Bersky, Protem, Paso Robles

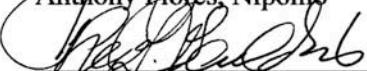

Patricia Albertini, Los Osos

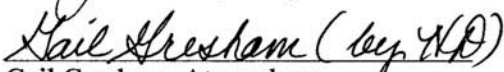

Donald Anderson, Arroyo Grande

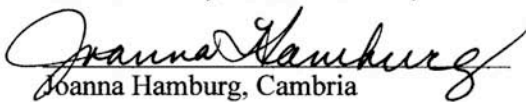

Gerald Balint, Templeton


Diane Dell'Era, San Luis Obispo

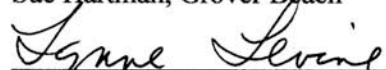

Anthony Flores, Nipomo



Theodore Gauldin, Arroyo Grande

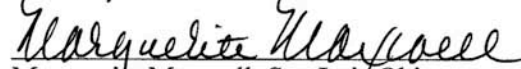

Gail Gresham, Atascadero

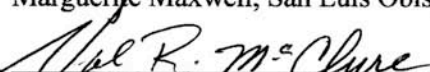

Joanna Hamburg, Cambria



Sue Hartman, Grover Beach

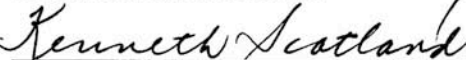

Lynne Levine, San Luis Obispo



Douglas Marks, Atascadero

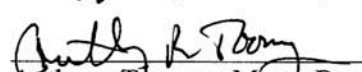

Marguerite Maxwell, San Luis Obispo


Val McClure, Arroyo Grande


Dennis Palm, Paso Robles


Kenneth Scotland, Atascadero


Marilyn Stein, Paso Robles


Anthony Toomey, Morro Bay

AUTHORITIES FOR GRAND JURY INQUIRIES

The authority for our inquiries is sanctioned by one or more of the following sections of the California Penal Code:

§919(b): “The grand jury shall inquire into the condition and management of public prisons within the county.”

§925: “The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex officio capacity as officers of the districts. The investigations may be conducted on some selective basis each year, but the grand jury shall not duplicate any examination of financial statements which has been performed by or for the board of supervisors pursuant to Section 25250 of the Government Code; this provision shall not be construed to limit the power of the grand jury to investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county”.

§925(a): “The grand jury may at any time examine the books and records of any incorporated city or joint powers agency located in the county. In addition to any other investigatory powers granted by this chapter, the grand jury may investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit. The grand jury may investigate and report upon the needs of all joint powers agencies in the county, including the abolition or creation of agencies and the equipment for, or the method or system of performing the duties of, the several agencies. It shall cause a copy of any such report to be transmitted to the governing body of any affected agency. As used in this section, "joint powers agency" means an agency described in Section 6506 of the Government Code whose jurisdiction encompasses all or part of a county.”

§928: “Every grand jury may investigate and report upon the needs of all county officers in the county, including the abolition or creation of offices and the equipment for, or the method or system of performing the duties of, the several offices. Such investigation and report shall be conducted selectively each year. The grand jury shall cause a copy of such report to be transmitted to each member of the board of supervisors of the county.”

§933.5: “A grand jury may at any time examine the books and records of any special-purpose assessing or taxing district located wholly or partly in the county or the local agency formation commission in the county, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such district or commission.”

§933.6: “A grand jury may at any time examine the books and records of any nonprofit corporation established by or operated on behalf of a public entity the books and records of which it is authorized by law to examine, and, in addition to any other investigatory powers

granted by this chapter, may investigate and report upon the method or system of performing the duties of such nonprofit corporation.” (*emphasis added*)

AUTHORITY FOR AGENCY RESPONSES

The following section of the California Penal Code is cited as the authority under which each agency must respond to the Superior Court:

§933.05 (a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

DEPARTMENT OF CHILD SUPPORT SERVICES - AKA: Deadbeat Parents

What is Child Support?

In a case of parents living apart, both parents have a legal responsibility to provide for the financial support of their children. The Department of Child Support Services (DCSS) is empowered to establish, enforce and arrange payment to bring “deadbeat parents” into compliance with court orders. DCSS receives orders from the court in cases of divorce, or when a child is born out of wedlock, if the child is residing with the custodial parent and support is ordered from the non-custodial parent. The Grand Jury reviewed DCSS procedures and effectiveness in the collection of child support payments and in the recovery of payments in arrears from the non-custodial parent to insure that the financial needs of the child are met.

ORIGIN

The Grand Jury selected the Department of Child Support Services from among San Luis Obispo County agencies that have not been reviewed within the last five years.

METHOD

The Grand Jury interviewed the Director of Child Support Services, and reviewed documents, brochures, organizational chart, budgets and performance measures. In addition, the Grand Jury consulted the California Family Code, Section 17304, which prescribes the duties and powers of county departments of child support services (See Appendix A).

NARRATIVE

The Role of the Court:

When a child is living with the custodial parent, that parent can petition the court to order the legal non-custodial parent to make payments for the support of their child. These payments may be based on the income of both parents and the amount of time each parent spends with the child. Payments also include factors such as cost of living and expenses, e.g. childcare, medical and dental services, transportation and health insurance. When payments are in dispute, an appeals process allows for the non-custodial parent to petition the court for new orders.

Services of DCSS:

The role of DCSS is to carry out court orders for payments of child support. In some cases, spousal support may also be included. DCSS may be required to locate a missing parent, to establish legal paternity and to collect and distribute payments. DCSS may request modification of orders if either parent's financial situation changes. If necessary, DCSS can impose enforcement measures on the uncooperative parent including garnishment of wages, suspension of driver's license and, as a last resort, imprisonment. The District Attorney prosecutes approximately twenty parents per month for nonpayment of child support.

Deadbeat Parents:

Locating missing parents involves the use of the Federal Parent Locator Service, a database that tracks all new employment nationwide. A Federal Case Registry is being compiled to locate missing parents. DCSS can use Social Security numbers, driver license applications, law enforcement records, military service records, and credit reports in the search. They may also contact current and previous employers. Although there is interstate cooperation for the collection and location of assets through the Uniform Interstate Family Act, if a parent leaves the country, it compounds the problem. Once a parent is found, paternity must be established in every case in which the father is named. DCSS uses all means available including DNA testing to establish legal paternity.

CONCLUSION

DCSS acts responsibly and in the best interests of the child, by promptly and effectively locating missing parents and establishing, collecting and distributing the support ordered by the court from the non-custodial parent.

DCSS will seek to modify payments as situations change or as disputes arise. Every effort is made by the department to settle disputes before bringing the case back to the court.

Based upon a limited examination of the DCSS budget, it appears that this department manages its financial resources responsibly. According to data provided by the director, San Luis Obispo

County's DCSS ranks among the highest in California for the recovery of child support payments based on statewide reporting standards.

REQUIRED RESPONSE

This is an informational report. No formal response is required.

ARE SAN LUIS OBISPO COUNTY CITIZENS SAFE?

ORIGIN

After the devastation of Hurricanes Katrina and Rita, prisoners escaped or just walked away from local jails and prisons during the chaos that ensued. The Grand Jury examined the evacuation plans of locked facilities in San Luis Obispo County.

METHOD

Members of the grand jury interviewed authorities of the locked facilities, reviewed written evacuation plans and made site visits to the California Men's Colony (CMC), El Paso de Robles Youth Correctional Authority (CDCR-DJJ, California Department of Corrections and Rehabilitation - Division of Juvenile Justice), County Juvenile Services Center (JSC), County Jail, and Atascadero State Hospital (ASH). Due to the nature and need for security in each of the locked facilities, the Grand Jury has agreed not to reveal specific emergency plan details.

Note: *The Grand Jury acknowledges that the Atascadero State Hospital (ASH) does not fall under the definition of 'public prisons' as defined by the California Attorney General. The Grand Jury wishes to thank ASH for their voluntary cooperation in the preparation of the report on his report.*

NARRATIVE

Safety of the citizens is a high priority. Because San Luis Obispo County has potential for earthquakes, fires, mudslides, releases of hazardous materials, a major concern of locked facilities is for the protection of the community residents.

There are disaster plans in effect at all the locked facilities in the county for internal and external emergencies. They include instructions for minor localized emergencies such as a small fire in a specific housing unit, to a disaster such as a major earthquake. Each facility has its own emergency disaster plan. If an emergency occurs in one or more areas of an institution, inmates may be housed in alternate locations within the facility.

The facilities' disaster plans identify the hierarchy of personnel in charge and their specific duties and responsibilities within the institution. Some of the locked facilities have their own police force and fire fighters to maintain safety and order within the facility.

The institutions have back-up generators, hand-held radios for communicating when telephones are down. Necessary food, water, blankets, tents, medications, etc., to last several days to weeks is available for use.

If evacuation is necessary, the facilities have mutual aid agreements with locked institutions throughout the state. Local facilities coordinate with the Office of Emergency Services as part of disaster planning.

During an emergency, staff remains within the institution until relieved by incoming staff. Visitors within the facility will also remain until it is safe to exit. The personnel in charge have authority during crises and will notify staff and visitors of the plans.

CONCLUSION

The Grand Jury recognized the extensive disaster planning that has gone into protecting residents of the county by all of the locked facilities. The Grand Jury is satisfied that plans are in place to protect the citizens of San Luis Obispo County in the event of a disaster.

REQUIRED RESPONSE

This is an informational report. A formal response is not required.

RED LIGHT – GREEN LIGHT

The increase in traffic within the County of San Luis Obispo has created problems for drivers throughout the County. The specific concern is the traffic lights at the intersection of Highway 101 and Tefft Avenue in Nipomo. Members of the Grand Jury did a drive-through test at that intersection to ascertain what the problems are and sought to determine if a plan was in place to remedy this situation.

ORIGIN

The Grand Jury received a complaint regarding the ongoing traffic problem at Highway 101 and Tefft Street in Nipomo. The Grand Jury was asked to look into the feasibility of synchronizing the stoplights at those intersections.

METHOD

We evaluated the traffic flow through the intersection and observed the timing and synchronization of the traffic signals. Members of a grand jury sub-committee drove through the intersection and held follow-up discussions with the San Luis Obispo County Traffic Control Manager. Information reviewed included the circulation plan from the “West Tefft Street Corridor Study” prepared by TPG Consulting, Inc. in May of 2003.

NARRATIVE

The existing conditions at this intersection show that the volume of traffic is significant and creates problems at certain times of the day. Two factors contribute to this congestion: the first is the volume of the on and off traffic from Highway 101. It is important that vehicles exit the freeway as quickly as possible and not be allowed to back up into the freeway lanes. The second contributing factor occurs on Tefft Street when vehicles enter or exit businesses and residential neighborhoods.

Regarding the synchronizing of the stoplights at this intersection, the County Traffic Control Manager explained that two of the signals were Caltrans-owned and operated and two others were San Luis Obispo County-owned and operated. Each agency has different priorities. The county’s priority is traffic flow on Tefft and the state’s priority is moving traffic off the freeway.

They are cooperating to coordinate the signals. SLO County has acquired and installed the state's traffic signal control software program. The signals are now compatible and synchronized. A copy of the "West Tefft Corridor Design Plan" obtained by the Grand Jury includes recommendations to improve traffic flow (see Appendix A). The principle recommendation is to extend Mary Avenue to Hill Street with an on-ramp to the Southbound 101 Freeway. This will siphon off much of the congestion at Tefft and 101 (see map in Appendix B).



CONCLUSION

The Grand Jury is satisfied that the County of SLO is aware of the traffic congestion problem in Nipomo and plans to alleviate it as soon as possible. A complete and detailed plan, the "West Tefft Corridor Design Plan," developed by the Department of Planning and Building, is available for public inspection and will be implemented.

The County Traffic Department is working on solutions in anticipation of traffic problems as the County continues to grow.

REQUIRED RESPONSE

This is an informational report. No formal response is required.

Appendix A

Excerpt from the West Tefft Street Corridor Study

RECOMMENDATIONS

The following improvements are recommended in order to improve the traffic flow in the area and to maintain the adopted level of service.

1. Extend Mary Street to Hill Street - as soon as possible
2. Install a median from Highway 101 to Pomeroy in phases, as illustrated in Figure 3-1.
 - a. Initial phase from Highway 101 to west of Mary - as soon as possible
 - b. Second phase from west of Mary to west of Blume - in conjunction with the construction of the Blume intersection
 - c. Final phase from west of Blume to Pomeroy - with the signalization of Gardenia Street

As the median is introduced, full median breaks should be placed -at the following locations. Each location should be designed according to the California Highway Design Manual (see Appendix H)

- 1., At the Mary intersection
2. At the future Blume alignment (new intersection)
3. At the Gardenia intersection
4. At the Pomeroy intersection
5. At the Orchard intersection

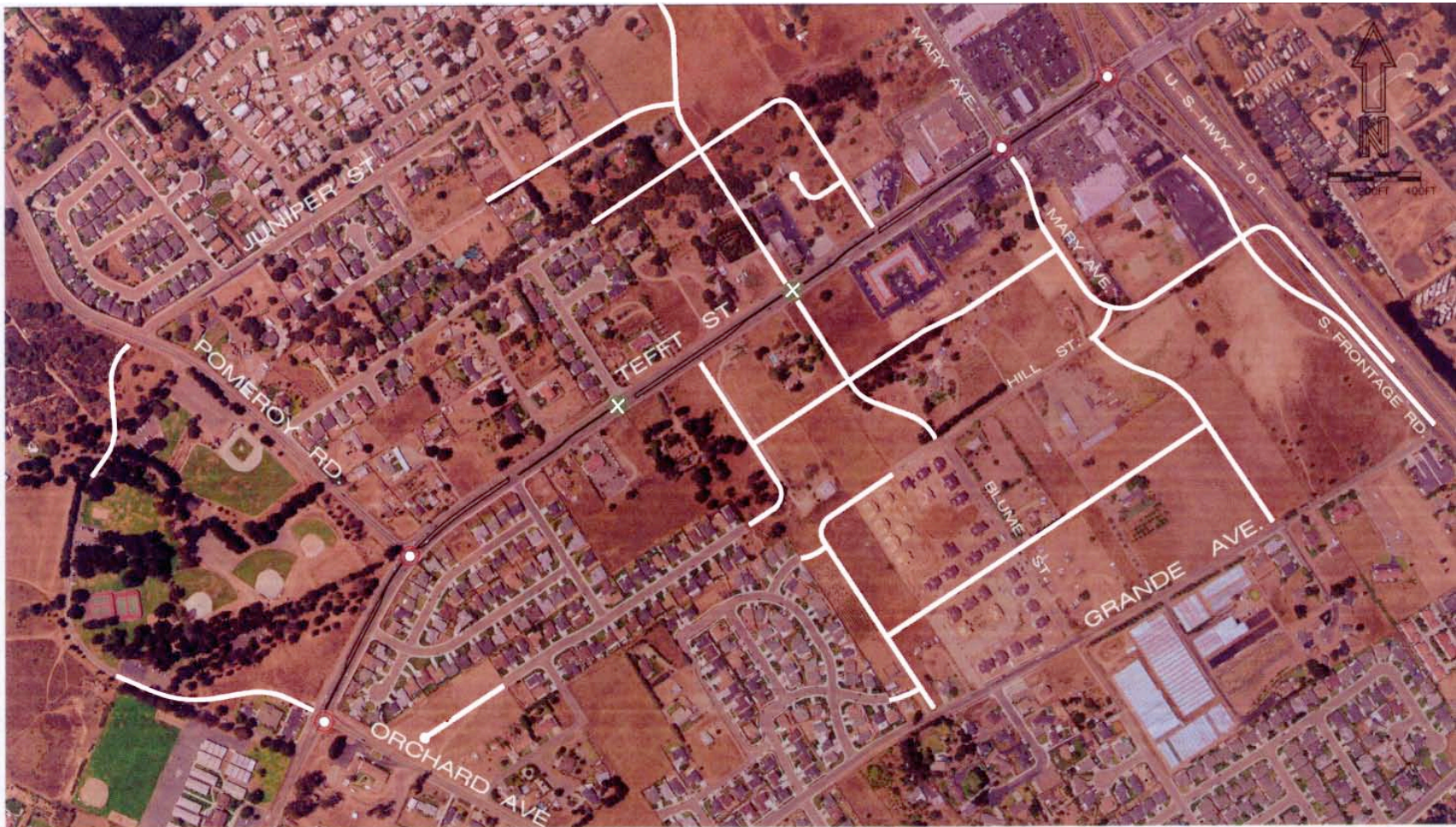
In addition to these intersections, partial median breaks (worms) should be placed at the following locations to facilitate access and circulation. Each location should be designed according to the California Highway Design Manual.

1. At the Elvira intersection
2. At approximately mid-point between the intersections of Mary and Blume (approximately Station @ 43+85)

These partial median breaks should be evaluated for closure after the planned street system is completed or as growth in traffic volumes on West Tefft Street necessitate increasing capacity of the arterial. The Circulation Plan in Figure 3-2 delineates these concepts graphically. The proposed typical street section in Figure 3-3 should guide lane configuration and median layout for West Tefft Street between U.S. 101 and Orchard.

3. Develop a coordinated traffic signal system in phases:
 - a. Install the initial coordination system for the intersections of Oakglen, Northbound ramps, Southbound off-ramp/Frontage Road and Mary with installation of the median

- b. Second phase for Blume, Promeroy and Orchard - with the installation of the new signal at Blume and the median
- 4. Relocate the southbound on-ramp to the Hill Street intersection - as soon as possible
- 5. Use design standards and guidelines in installing street improvements for West Tefft Street which follow the California Highway Design Manual,
- 6. The County of San Luis Obispo should adopt Arterial Street Standards for use in urban areas to facilitate their proper operation.



LEGEND

- = EXISTING TRAFFIC SIGNAL
- ✕ = FUTURE TRAFFIC SIGNAL

WEST TEFFT STREET CORRIDOR STUDY CIRCULATION PLAN

COUNTY HARBORS

The county's two harbors, Morro Bay and Port San Luis, have long played a major role in the economic evolution of San Luis Obispo County. From the old train that chugged onto Harford Pier at the turn of the last century to the familiar fishing fleet that called each harbor home for many years, the role of these two harbors has never been static. But now, the train is only a page in the county's history book and the fishing fleet, along with the seafood processing plants, has become the subject of the latest chapter in that history.

NARRATIVE

Administratively the two harbor facilities are completely separate. The Morro Bay Harbor Department is a component of the Morro Bay City Government and is controlled by the Morro Bay City Council. Port San Luis Harbor District is a general purpose local special district as authorized by state law and is governed by an elected Board of Commissioners. Although both harbors are jurisdictionally and administratively separate, they have long shared much in common in their relationship to the county and to each other. For this reason we have chosen to treat both facilities in the same report.

Both harbors appear to be well run and managed by dedicated and professional staff and management. They maintain close cooperation with each other and regularly confer on questions of common interest. Both also face some common problems.

Commercial fishing and seafood processing have been an economic mainstay at both harbors for many years. Boats docked and moored, loaded and offloaded regularly. Many fishermen made their living from the sea and called these harbors 'home port'. They also lived in the community and called it home. They raised families here and generations followed in the family business. But, that's all changing now. Fishing has become a highly regulated business – so much so that it has been largely regulated out of existence on the Central Coast. The economics of the fishing industry are such that many commercial boats are either gone, or very shortly will be gone.

The decline of commercial fishing has forced a change in the character of the harbors. It has removed what many tourists, and many locals, have come to appreciate as the “quaint” nature of these “fishing villages.” It has also taken a toll on the level of economic activity and revenue for each harbor. This is not to say that the character and economic stability of Morro Bay and Port San Luis are, nor have they been for many years, entirely dependent on the commercial fishing fleets. Nevertheless, the fleets have been an important part of the character and lure of the ports.

Charter fishing boats catering to the public have also played a measurable role in attracting the tourist trade. These charter fishing boats are now forced to close during a large part of the year and their future is open to question.

When Avila Beach was virtually destroyed for removal of polluted soils, the “funky beach town” character the community had enjoyed for so many years was also removed. It is now necessary for Avila Beach to reinvent itself. Rebuilding the community and Avila's new character will surely have a major impact and play a major role in the future of Port San Luis.

Morro Bay Harbor Department:



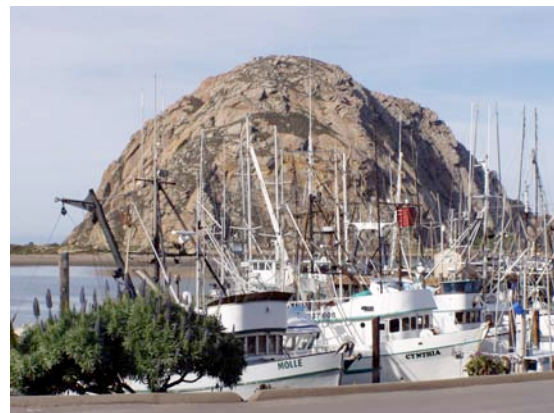
What the future holds for Morro Bay and its harbor will be largely determined by market conditions and the natural evolution of the character of life on the Central Coast. Housing will continue to appreciate at an accelerated pace, especially water view properties, and the tourist industry will continue to grow, even without the fishing fleet's presence. As the nature of the area changes with the influx of retirees from major

metropolitan areas, Morro Bay will simply be swept up in the tidewater of this change. Although there is much that must be done to preserve and protect the estuary, and the future of the power plant is unclear, there is probably little that needs to be done, or even can be done, to change what is inevitable for the future of Morro Bay's harbor.

The Harbor as an Asset - During World War II the Navy created what is now known as the Embarcadero by placing fill below the bluffs at the edge of the bay. In 1947, under the State Tidelands Grant, the newly created land became the property of the city and was eventually developed into what is today's Embarcadero. This entire area, including the boat slips, piers, and all the commercial property on the seaward side of the Embarcadero is now owned by the city and operated by the Harbor Department. The lease and rental revenue from some 50 commercial establishments, approximately one million dollars per year, is placed in a dedicated fund to be used for maintenance and operation of the harbor.

In addition to operation of the Embarcadero area and all harbor facilities, the Harbor Department also operates the Morro Bay Harbor Patrol. The Harbor Patrol provides search and rescue services and boater assistance in the harbor and out to the three-mile state water limit parallel to the city's coastline, and occasionally beyond. The Harbor Patrol provides approximately 300 boater assists plus 150 emergency responses each year. The Harbor Patrol's officers also enforce harbor regulations but are not sworn peace officers and do not exercise arrest powers. The US Coast Guard based in Morro Bay has enforcement authority for vessels under way and provides supplemental assistance to the Harbor Patrol when required.

Because Morro Bay's harbor has a stable flow of income from rents and leases along the Embarcadero and from boat slip rentals, loss of the fishing fleet does not result in a critical loss of revenue.



The Future – If Morro Bay Harbor faces any problem in the future, we feel it is most likely to be a question of how to re-invent itself as a burgeoning tourist destination. This is not an altogether unenviable problem to have. We feel that the future of the Morro Bay Harbor is secure, promising, and bright. As concerns the Morro Bay Harbor, this is a informational report only and no response is required.

Port San Luis Harbor District:

Port San Luis' future is closely tied to the future of Avila Beach – and Avila Beach is well on the path to becoming one of California's premier beach resorts. The redevelopment of Avila has created a tourist destination to rival the finest along California's 1100-mile coastline. It is reasonable to expect the economic impact of Avila to become increasingly important to both San Luis Obispo County and the Port San Luis Harbor District in the immediate future. The Harbor District provides many of the functions (i.e. lifeguards and restrooms) and attractions which Avila businesses will use and rely on to attract patrons, yet does not share in the resulting revenue (e.g. bed taxes). While the entire cost for provision of the facilities and services in the District falls on the taxpayers who live in the District, the commercial enterprises who benefit directly from the facilities of the Harbor District do not share proportionately in the cost of providing the services and facilities which benefit them directly.

Although the physical Harbor District is confined to the San Luis Obispo Bay area, the Port San Luis Harbor District, for tax and election purposes, is formed from a vast area in the south county. Generally, the Harbor District tax area is the same as the two south county Supervisors' districts (3rd and 4th Supervisorial Districts). Revenue for operation of the District comes both from operations and from property taxes collected in the District, in approximately equal amounts from each source according to the 2005-06 budget. The District is governed by a board of Commissioners generally elected from the 3rd and 4th Supervisorial Districts, with overlap into other supervisorial districts in the City of San Luis Obispo.

The District owns the entire beach area from the Harford Pier to the end of the beach at Sunset Palisades, the major public parking facility in Avila, the Avila and Harford piers, the Avila Yacht Club, the camp ground and trailer park above the Avila Beach drive, 24 acres at Point San Luis including the former US Coast Guard lighthouse, the boat haul-out area and maintenance yard, and the water seaward to three miles from the beach totaling roughly 2,500 acres of water and 125 land acres.

The District's Harbor Patrol provides boater assistance, medical, limited law enforcement, and search and rescue services in the port waters and the adjacent ocean. The District also provides lifeguards at the beaches during summer months.

The camping spots above the harbor are currently undeveloped and are used mainly as storage areas. However, the District has applied to the Coastal Commission for permits to develop and use these spots for improved storage, open space, transient accommodation, administrative offices, camping and RV overnighting. When fully developed, these sites will provide unsurpassed views of the coast from Avila to Point Sal and many miles seaward.



The lighthouse is now in the process of restoration and will be a significant tourist attraction when finished. Restoration is provided by the Lighthouse Keepers, a volunteer organization, which has been working on the project for the past ten years. In coordination with the District, the Keepers handle a large volume of paperwork required by various governmental agencies, including the Federal Government, concerning the restoration of the historic landmark. In addition to restoration of one of the rooms in the keeper's quarters, they also have accomplished a number of other tasks required for the restoration process. The District spends \$20,000 to \$30,000 annually on upkeep and maintenance of the grounds and facilities at the lighthouse. Once the lighthouse is open to tourism all revenue from lighthouse tours and other uses must be placed in a trust fund to be used exclusively for the benefit and maintenance of the lighthouse. All of the revenue generated from the lighthouse may only be used for lighthouse properties and is not available for general use by the District.

The District's plans call for a new pier to be built just inside the breakwater for landing visitors at the lighthouse who have been ferried from the Harford Pier. Additional access will be via a road across PG&E's Diablo Power Plant property in escorted vehicles. This road currently exists, but is only a rough 'jeep trail' and requires extensive improvement before regular use to transport visitors. At this time the District has approximately 1.25 million dollars either

promised or currently available for improvement of the road and a tentative agreement with PG&E to allow access via the road. Approximately \$700,000 of that amount is in the form of a promised grant from PG&E. However, because the County Planning Commission placed additional restrictions on PG&E's application for additional buildings, this amount may now be in jeopardy (January 2006).

The District's operating revenue includes fees from operation of the public parking facility at Avila. This parking lot is located at the lowest point in Avila, which is below sea level, and is the point toward which all drainage in the newly built-up area now flows. Prior to the redevelopment of Avila this vacant property was not paved and water could percolate into the soil. Today, almost the entire area of Avila is paved. Herein lie three potential problems the Grand Jury has identified.

First, there is a potential for flooding. Water which collects in the parking lot flows into a drainage ditch located between the parking lot and Avila Beach Drive. The water then flows from the ditch under Avila Beach Drive into San Luis Creek during periods of low tide. The outlet to the creek is controlled by a flapper valve, which will open when the tide is low. While tidal back-pressure on the valve at high tide prevents the valve from opening, it also prevents water in the drainage ditch from being expelled to the ocean.

Due to the extensive paving now in Avila it is possible that a combination of heavy rain, together with a high tide – which prevents the valve from opening – could force the drainage ditch to fill to the point of flooding in the parking lot and nearby structures. The damage resulting from this scenario could be extensive.

The communities' drainage into the ditch and outflow from the ditch under Avila Beach Drive is through a pipe controlled by the county's flood control district, which also controls and is responsible for the flapper valve. This leaves the Harbor District responsible for the portion of the Avila drainage system most likely to flood but unable to exercise control over the causes of the flooding.

The flood control district is part of the county's Public Works Department. The Harbor District has made attempts to deed the drainage ditch to the county's flood control district, since it is a major component in the overall Avila flood control system. The Harbor District has taken the position that, since the flood control district is responsible for flood control in Avila Beach, it should assume responsibility for the entire drainage and flood control system in Avila Beach.

The second problem results from the fact that water often stands in this ditch and creates a mosquito breeding ground and a potential health hazard.

Finally, since the ditch is open and unprotected, it also represents a potential safety problem.

As mentioned above, the Harbor District also owns and maintains the beach at Avila and employs lifeguards during the summer months. The beach, including lifeguards, operations, and maintenance, constitutes a major expense for the District. According to District management the total cost of the beach area operations is approximately \$400,000, while revenue from the parking facility and other beach resources is only about \$100,000.

The Harford Pier is an old (1873) wooden structure, which has withstood many years of relentless challenges from the sea. It is a constant battle to maintain the pier in safe and serviceable condition. The District does this well, but at great expense.

METHOD

Members of the Grand Jury reviewed the annual reports of both harbors, toured the harbors and the lighthouse, interviewed the harbor masters of both harbors, and conducted interviews with harbor staff. We also examined various developments in Avila Beach as well as the parking facility operated by Port San Luis and the adjoining drainage ditch.

FINDINGS

Finding 1: While major economic benefits of the beach, pier, and other District facilities accrue to the complex of new, luxury resorts and hotels at Avila Beach, and to the county treasury

through bed taxes, the excess cost of operations must be born by the residents of the District through their property taxes.

Finding 2: The drainage ditch at the parking lot represents a potential flooding hazard.

Finding 3: The drainage ditch presents a potential health hazard due to mosquito breeding.

Finding 4: A safety problem also results from the ditch being uncovered and unprotected.

Finding 5: PG&E's cooperation in development of the lighthouse project is commendable.

RECOMMENDATIONS

Recommendation 1: A portion of the bed tax collected from the hotels, motels, and resorts in Avila should be shared with the Harbor District for its operation and maintenance of the beaches and other facilities, which benefit these same enterprises. (Finding 1)

Recommendation 2: Whereas the county benefits economically from the development of Avila and the future revenues generated thereby, and whereas the county has approved the plans and granted the permits for building and paving in Avila, and whereas the county's flood control district is responsible for flood control in Avila, and whereas the county must share in the potential burden and liability for any damage resulting from flooding of the drainage ditch in its flood control district, the county should therefore assume responsibility for designing, providing, and maintaining a solution to the potential overflow and flooding problems at the drainage ditch. (Finding 2)

Recommendation 3: The county should undertake regular mosquito abatement at the drainage ditch, or other appropriate measures, to prevent mosquito larvae from developing. (Finding 3)

Recommendation 4: The ditch should be fenced and access restricted for safety reasons. (Finding 4)

AUTHORITY

California Penal Code §925 states: "The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex officio

capacity as officers of the districts. The investigations may be conducted on some selective basis each year, but the grand jury shall not duplicate any examination of financial statements which has been performed by or for the board of supervisors pursuant to Section 25250 of the Government Code; this provision shall not be construed to limit the power of the grand jury to investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county. The grand jury may enter into a joint contract with the board of supervisors to employ the services of an expert as provided for in Section 926.”

California Penal Code §925(a) states: “The grand jury may at any time examine the books and records of any incorporated city or joint powers agency located in the county. In addition to any other investigatory powers granted by this chapter, the grand jury may investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit. The grand jury may investigate and report upon the needs of all joint powers agencies in the county, including the abolition or creation of agencies and the equipment for, or the method or system of performing the duties of, the several agencies. It shall cause a copy of any such report to be transmitted to the governing body of any affected agency. As used in this section, "joint powers agency" means an agency described in Section 6506 of the Government Code whose jurisdiction encompasses all or part of a county.”

California Penal Code §933.5 states: “A grand jury may at any time examine the books and records of any special-purpose assessing or taxing district located wholly or partly in the county or the local agency formation commission in the county, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such district or commission.”

REQUIRED RESPONSES

- **The Port San Luis Harbor District, Due: April 25, 2006 (Findings 1, 2, 3 & 4, Recommendations 1, 2, 3 & 4)**

- **The San Luis Obispo County Public Works Department, Due: April 25, 2006 (Findings 2, 3 & 4, and Recommendations 2, 3 & 4)**
- **The San Luis Obispo County Board of Supervisors, Due: May 30, 2006 (Findings 1, 2, 3 & 4 and Recommendations 1, 2, 3 & 4)**

PESTICIDE USE AT THE AGRICULTURAL/URBAN INTERFACE

“Grassroots Effort Yields Promising Crops”

The use of pesticides on agricultural lands has a direct effect on the quality of life of residents in surrounding neighborhoods, particularly on children who attend schools nearby. The Grand Jury reviewed reports from concerned citizens and measures that were adopted as a result. We also reviewed health and safety concerns regarding those living and working within the agricultural/urban interface.

ORIGIN

The Grand Jury recognizes that as San Luis Obispo County continues to expand its population, there will inevitably be conflicts between the agricultural community and developing residential areas. This study was initiated to explore safety concerns inherent in this growth.

METHOD

The Grand Jury took the following steps in conducting this inquiry:

1. Interviewed the County Agricultural Commissioner (CAC) and staff from the department, together with staff from the California Department of Pesticide Regulation (DPR);
2. Reviewed information concerning pesticides, application methods, and the effects of specific chemicals on human health;
3. Interviewed members of Neighbors -At -Risk (NAR), a grassroots organization;
4. Viewed a presentation by the Environmental Center of San Luis Obispo (ECOSLO), a local environmental action group, on pesticide exposure and school safety issues;
5. Studied the recommendations of the Pesticide Task Force and the responses generated by CAC;
6. Examined a current map of school buffer zones prepared by CAC (Appendix A); and
7. Reviewed legislation and regulations governing pesticide use in California; (Appendix B).

NARRATIVE

Between 1998 and 1999, a residential community of 27 homes was established in the community of Oceano at South Elm and Lower Pike, adjacent to a 30-acre strawberry field about a mile from the ocean. Within the ensuing year, many residents reported respiratory illnesses, asthma, rashes, headaches, and other flu-like symptoms. They suspected they had been exposed to the pesticide methyl bromide, which they learned was being applied to the adjacent strawberry field. In February 2002, a grassroots organization, NAR was formed. Its goal was to monitor pesticide use and community reaction and report the findings to the CAC and the Public Health Department.

Partly as a result of NAR's concerns, the San Luis Obispo County Public Health Department, with the Health Commission, formed the Task Force on Health and Pesticide Use. The task force was composed of Health Commission members, agricultural representatives, and community members who met over a period of almost two years. While acknowledging the importance of supporting and preserving agricultural land in the county, the task force also recognized the problems inherent in the ag/urban interface. The result was a series of recommendations, which are paraphrased below:

- I. There is a need for a simple and sensitive protocol to respond to complaints from private citizens who believe they have been exposed to pesticides.
- II. The CAC should continue to mediate concerns between local growers and neighbors and provide opportunities for growers and neighbors to meet in non-adversarial settings, such as Open Farm events.
- III. The CAC and the Public Health Department should jointly identify every educational and childcare facility within 500 feet of agricultural fields. A protocol of voluntary notification was established in which a grower or groundskeeper must alert a neighboring institution whenever they are planning to fumigate the soil or spray pesticides.
- IV. The Health Commission was urged to contact the Department of Pesticide Regulation to support standardization of pesticide drift testing at the state level.

- V. As methyl bromide is replaced with less toxic alternatives, the CAC should carefully monitor the new generation of pesticides.
- VI. The Health Department should take a more visible role in pesticide exposure cases and provide education about rights, resources, symptoms and medical options in cases of pesticide exposure.
- VII. The CAC's current "Train-the-Trainer" program to ensure the safety of workers in the fields was commended and should continue on a regular basis.
- VIII. The Integrated Pest Management program adopted by the CAC was commended. It was recommended that all Parks and Recreation Departments adopt a similar protocol and that the County Superintendent of Schools monitor each school district for compliance with the Healthy Schools Act.
- IX. The Task Force supported the Montreal Protocol, which will lead to the worldwide ban of methyl bromide.
- X. It was recommended that the Task Force on Health and Pesticide Use be revived every three years as a necessary guardian of the public's wellbeing.

The CAC has been responsive to the Health Commission, the Task Force on Health and Pesticide Use and the public in general. The CAC has authority and responsibility regarding pesticide application in San Luis Obispo County. The CAC can enforce rules and regulations authorized by the state (DPR) regarding the use of pesticides, but cannot deny legal pesticide applications. It has the authority to place conditions on the use of restricted pesticides, but has limited authority when considering the use of non-restricted pesticides. San Luis Obispo County and the State of California have agreed to maintain a balance between agriculture and population growth. With that agreement comes the responsibility to monitor growing methods, which will minimize hazards to public safety.

School Safety: The threat of pesticide exposure to children is of particular concern. The CAC works with the Public Health Department to maintain a database and map of all schools and licensed childcare facilities within 500 feet of an agricultural field. In February 2004, the CAC

mailed a good neighbor policy to all identified growers and applicators. The “Suggestions for Pesticide Applications Near Schools” handout ((Appendix C) continues to be distributed. The concern is that these measures are, by definition, “suggestions” and compliance is voluntary.

In 1999, the Cuyama Elementary School in Santa Barbara was evacuated and closed as a result of pesticide drift involving metam sodium, a highly volatile and toxic pesticide. Staff and children developed symptoms of pesticide exposure from its application to a nearby carrot field. In 2000, Mound Elementary School in Ventura County experienced drift from an adjacent orchard where another pesticide, Lorsban, was applied. This school was also evacuated and temporarily closed. Schools in San Luis Obispo County are also subject to methyl bromide applications (Appendix D).

In October 2005, 60 people in the Creekbridge neighborhood of Salinas in Monterey County experienced eye and throat irritations. A fumigant pesticide, chloropicrin, had been applied through drip irrigation to a strawberry field about 1200 feet from the homes. The Monterey CAC said that a mistake was made causing the chemical to spread through the air. The California DPR has documented 142 ag-related pesticide illnesses in Monterey County between 2000 and 2003. Cases in San Luis Obispo County have been documented at 53 during the same time period.

FINDINGS

Finding 1: California grows more than 85% of the nation’s strawberries and other methyl-bromide dependent crops. San Luis Obispo County growers planted 800 acres of strawberries in 2004. In 2005, 18 restricted materials permits were issued for the use of methyl bromide. Besides its toxicity, methyl bromide is a significant contributor to the ozone depletion in the atmosphere. The use of this pesticide continues despite the fact that the U.S. has signed the Montreal Protocol treaty, which promised to ban the use of methyl bromide by 2005. Efforts are still in progress on both the federal and the state levels.

Finding 2: Growers are subject to obtaining use permit, being inspected and fined for violations ranging from fifty to many thousands of dollars depending on the nature of the non-compliance.

Finding 3: All schools are considered “sensitive sites”. School safety issues that have been addressed include parental information regarding spraying schedules, the creation of buffer zones around schools and childcare centers and mandatory conditions on restricted pesticide application when children are present.

Finding 4: The CAC and Public Health Department have coordinated efforts to update their database of childcare facilities in order to prevent pesticide exposure to this most vulnerable

Finding 5: The Environmental Resource Section (land use) of CAC’s office is periodically requested by the Planning Department to provide input regarding a suitable location for a new school. This information, which takes into consideration the proximity to existing commercial agriculture, is often disregarded. New schools continue to be placed near large agricultural venues.

Finding 6: The Task Force on Health and Pesticide Use recommended that they meet every three years.

Finding 7: Legislation at the state level seeks to protect all citizens against pesticide drift, and recently SB 391 was introduced to provide for medical reimbursement for pesticide-related illnesses.

RECOMMENDATIONS

Recommendation 1: The Grand Jury strongly recommends that less toxic materials be used to replace methyl bromide and that the Board of Supervisors actively support the Montreal Protocol. (Finding 1)

Recommendation 2: Fines imposed on growers should be reviewed and made stringent enough to deter infractions of all regulations. (Finding 2)

Recommendation 3: Restricted pesticides should be prohibited on school grounds. School officials should adhere to the principles outlined in the Healthy Schools Act of 2000 (AB 2260 and AB 1006) until the long-range effects of pesticides on children’s growth patterns can be documented. Buffer zones around schools should be broadened beyond those specified on the manufacturer’s label. (Finding 3)

Recommendation 4: The annual updating of childcare locations is an important part of protecting children. Mandatory annual updating should be the responsibility of the office of the CAC. (Finding 4)

Recommendation 5: Recommendations from Environmental Resource Section should be an essential part of any new school project's planning. (Finding 5)

Recommendation 6: The Grand Jury recommends that the Task Force on Health and Pesticide Use meet annually for the purpose of review and recommendations. (Finding 6)

Recommendation 7: The Grand Jury urges all concerned citizens to contact their local representatives and urge them to enact and support legislation that will further protect school sites and the surrounding residents from future exposure and contamination. (Finding 7)

CONCLUSION

The Grand Jury would like to commend the CAC for its outreach to the public: the creation of a HOTLINE and the distribution of handouts describing how pesticides are regulated, how to report complaints, and measures to reduce pesticide use in the home. This agency performs the important job of bringing neighbors and growers together to cooperate on common problems. In addition, CAC coordinates with Santa Barbara County to maintain consistency in regulating pesticide use throughout the region.

The Grand Jury would like to acknowledge the grassroots efforts of Neighbors-At-Risk for taking a proactive stance on this issue as well as ECOSLO for their work in increasing public awareness. We also commend the Public Health Department for creating the task force, for working with CAC, and for providing training to medical professionals in schools and hospitals.

As the county's population increases, the agricultural/urban clash will intensify. Land use decisions, which ensure both the grower's "right to farm" and the public's health, need to be protected. California's goal is to protect commercial agriculture as an essential component of the state's economy. The Grand Jury hopes this county is committed to maintaining a balance between growing crops and a growing population.

REQUIRED RESPONSES

- **The San Luis Obispo County Agricultural Commissioner: Due 05/03/06 (Findings 2, 3 & 4 and Recommendations 2, 3 & 4)**
- **The San Luis Obispo County Planning Department: Due 05/03/06 (Finding 5 and Recommendation 5)**
- **The San Luis Obispo County Public Health Department: Due 05/03/06 (Finding 6 and Recommendation 6)**
- **The San Luis Obispo County Board of Supervisors: Due 06/07/06 (Findings 1 through 6 and Recommendations 1 through 6)**

APPENDICES

Appendix A - Map of School Buffer Zones

Appendix B – Legislation Governing Pesticide Use in California

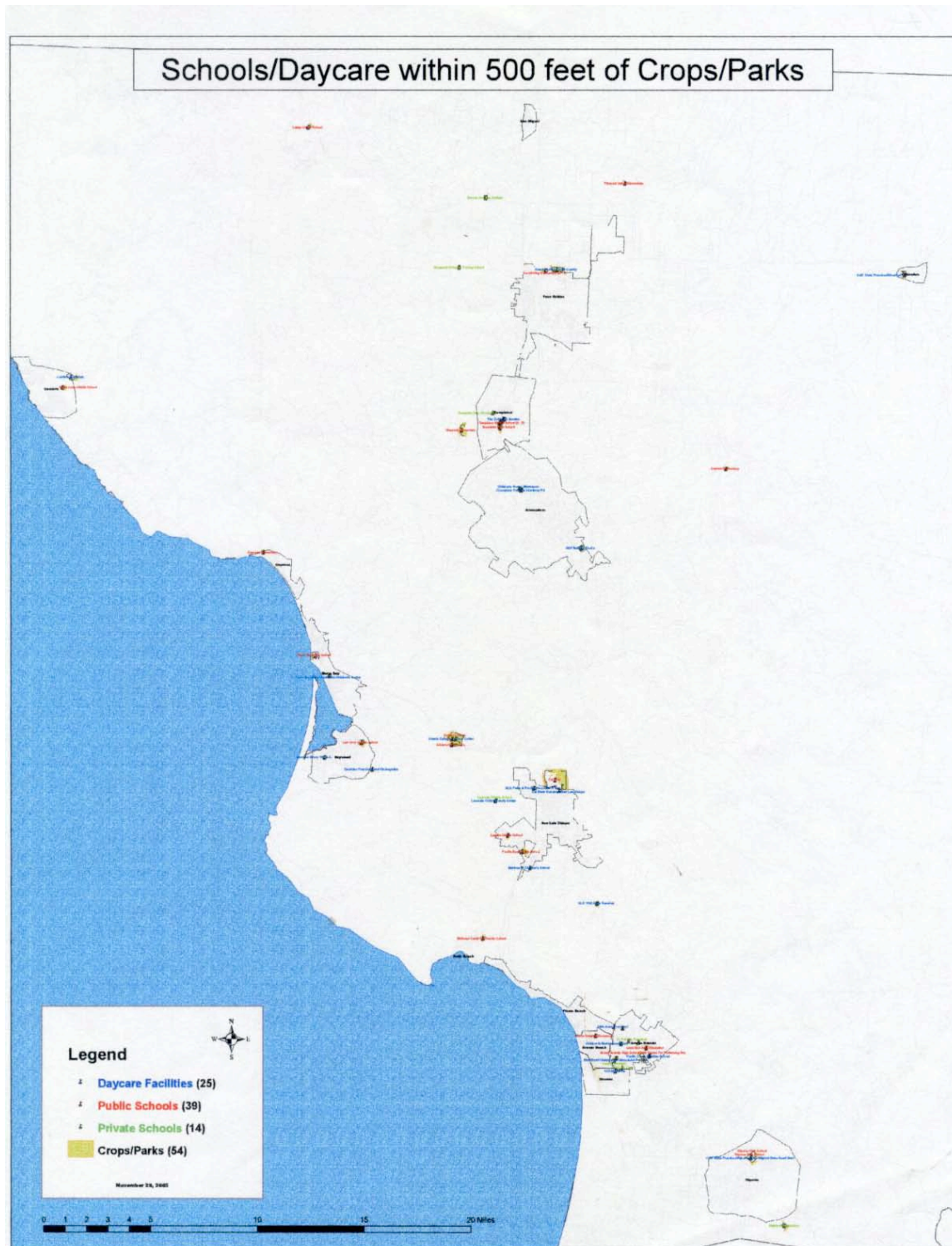
Appendix C – “Suggestions for Pesticide Applications Near Schools”

Appendix D - @ RISK Chart

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Appendix A



Appendix B

Legislation Governing Pesticide Use in California

1. TOXIC AIR CONTAMINANTS LAW, 1984. This law requires DPR to assess all pesticides as potential air contaminants and regulate them to protect public health.
2. HEALTHY SCHOOL ACT. This law advocates use of Integrated Pest Management programs to reduce chemical toxins in and around school grounds in order to minimize biological risk to children.
3. ABP 947, 2002. County Agriculture Commissioners may mandate buffer zones of one-half mile around sensitive sites, i.e. schools and hospitals.
4. CALIFORNIA FOOD AND AGRICULTURAL CODE, Section 12972.
The code expressly states measures should be taken to prevent substantial drifts to non-targeted areas.

Appendix C



COUNTY OF SAN LUIS OBISPO

Department of Agriculture/Masurement Standards

2156 SIERRA WAY, SUITE A - SAN LUIS OBISPO, CALIFORNIA 934016

ROBERT F. LILLEY

(805) 781-5910

AGRICULTURAL COMMISSIONER/SEALER

FAX (805) 781-1035

AgCommSLO@co.sio.ca.us

◆PUBLIC RELATIONS - NEIGHBORS AND SENSITIVE SITES ◆

SUGGESTIONS FOR PESTICIDE APPLICATIONS MADE NEAR HOMES, SCHOOLS, AND OTHER SENSITIVE SITES

Agriculturalists in San Luis Obispo County face many challenges in producing food and horticultural products that benefit everyone. Some of the greatest challenges are land use issues involving urban and rural residents and the farming community. A pesticide application near residents intensifies this challenge and often results in complaints and animosity between neighbors. It is our goal to assist pesticide applicators in developing ways to be sensitive to neighbors' concerns when using pesticides. The intent of these recommendations is to increase awareness and to encourage the safe use of pesticides in all settings.

◆ Suggestions and Possible *Voluntary* Solutions Concerning Pesticide Use in General:

1. Take the first step to talk with neighbors! Explain your agricultural operation: what you do, when you do things and why you do them. Explain the seasonal nature of possible increased traffic, noise, dust and pesticide use. If you use pesticides, *voluntarily* give your neighbors notification of pending applications. Explain that weather conditions usually dictate your schedule and predicting the exact time of a particular application may be difficult. If you make applications at night, notify your neighbors so they don't think you are hiding from them or anyone else. An easy way to provide notification to several neighbors is to help them develop a "phone tree call-down list" which means applicators call one neighbor and that person calls the rest of the neighbors. *Voluntary* notification is intended to keep neighbors informed and may also address the non-pesticide nuisance complaints such as early morning noise. Notification DOES NOT preclude mitigation of off-site drift. Explain to neighbors the reasons applicators wear protective clothing. If you hire applicators keep them informed of any arrangements you have made with neighbors.

2. Some complaints we receive involve odors from pesticide applications. Be aware if your pesticide has an obnoxious chemical odor. Though an odor may not be actual physical drift off your property, the smell can travel a long way, effecting multiple neighbors. Your smelly application at the very least can cause your neighbors to be awakened in the middle of the night or worse to have headaches and other illnesses. It is best to make your applications when there is some wind blowing away from neighbors and other sensitive areas. Be aware of weather conditions creating temperature inversions which restrict vertical air mixing causing both odors and small suspended droplets to remain close to the ground and move laterally off target in a concentrated cloud. We are obligated to respond to all complaints from the public.
3. Consider making applications when neighbors are normally gone for the day. Avoid making applications on weekends, holidays, or adjacent to roads during high traffic periods or during local events or festivals that may bring large numbers of bicyclists or joggers near your property.
4. Establish a relationship with the administrative staff of any nearby schools or other similar institutions. Keeping open communication lines can prevent many problems from occurring.
5. Explore alternative pest control methods that may reduce or eliminate the need for pesticides. Let your neighbors know the positive things you are doing like incorporating Integrated Pest Management strategies.
6. Ask your chemical supplier or PCA about new chemicals or alternative formulations that reduce the potential for off-site drift. For example, switch from a dusting formulation of sulfur to a wettable sulfur.
7. Consider planting a vegetative screen adjacent to neighboring property or leave an unplanted/untreated buffer area. If the topography and culture of the crop allows, change the planting direction of rows: it may be better to have length of rows rather than ends of rows along neighboring property lines.
8. For liquid applications, upgrade your spray equipment with nozzles that are designed to reduce drift. Make applications when airflow is away from neighboring property. Consider the use of hand-held spray equipment as a substitute to power equipment particularly in buffer zones.
10. If you would like some assistance, an Inspector from our office can conduct inspections of your pesticide applications, which may help verify the application was done in a safe and legal manner. Call us to request a "Voluntary Compliance Inspection" which gives you the opportunity to work with an Inspector to verify compliance and to discuss *voluntary* neighbor notification issues.
11. Get involved in land use planning processes that may affect your farming activities.

◆ **Restricted Pesticides:**

The County Agricultural Commissioner has the authority to condition the use of restricted material pesticides. Placing special conditions on Restricted Material Permits does this. In the development of permit conditions, County Ag Inspectors usually visit sites to be treated and work closely with applicators to evaluate and address sensitive sites. The proximity of occupied dwellings, application methods and equipment (aerial versus ground applications for example), alternative methods, topography of the site, and weather conditions are examples of factors evaluated. A sensitive site" designation by the Ag Inspector indicates a situation exists that may warrant extra precautions such as additional permit conditions. Neighbor notification may be required to inform the public about pesticide applications which are close to occupied dwellings, schools, etc. Applicators or growers, not staff from the Agricultural Commissioner's office, are responsible for neighbor notification.

◆ **Non-Restricted Pesticides:**

The County Agricultural Commissioner does not generally condition the use of non-restricted materials, unless the Commissioner determines that its use will present an undue hazard when used under local conditions. As with any pesticides, applicators are responsible to follow all label requirements and to avoid off-site drift. At times it may be necessary or just a good, neighborly approach for applicators to go beyond normal precautions including notification of neighbors of pending pesticide applications. Growers that have used this approach have had good success. Contact your industry association for linkage to peers that may assist you.

◆ **The California Public Records Act:**

The County Agricultural Commissioner frequently receives requests from the public for information about pesticide applications. Examples of commonly requested documents include copies of growers' Restricted Materials Permits, pending Notices of Intent, Use Reports, records of enforcement action and investigations. These documents, and many others, are considered "public records". The California Public Records Act, (Government Code Section 6250-6268), mandates the Commissioner provide public records upon request. The requests must be made in writing. The cost for completion of these requests is recovered through a fee for computer time and photocopies. (In some situations, the Commissioner may notify you of documents that were released in response to a request).

Please let us know about creative solutions you have developed so we may pass them along to others. For more information contact one of our offices:

Arroyo Grande District Office: 473-7090 ◆ Templeton District Office: 434-5950
San Luis Obispo Main Office: 781-5910

Appendix D



California Issues

[EWG CA Home](#)

[Methyl Bromide](#)

[Children's Health](#)

[Pesticides](#)



Schools in San Luis Obispo County with 100 or more pounds of Methyl Bromide applied within 1.5 miles of the school

Schools in San Luis Obispo County				
Rank	School	City	Total enrollment	Pounds of methyl bromide applied within 1.5 miles
1	Lopez High	Arroyo Grande	163	11,053
2	Arroyo Grande High	Arroyo Grande	2,969	11,053
3	Harloe Elementary	Arroyo Grande	724	11,053
4	Oceano Elementary	Oceano	514	9,771
5	North Oceano Elementary	Grover Beach	599	6,227
6	Grover Beach Elementary	Grover Beach	515	6,227
7	Mesa Middle	Arroyo Grande	776	3,031
8	Branch Elementary	Arroyo Grande	277	2,208
9	Los Ranchos Elementary	San Luis Obispo	589	787

THE SAN LUIS OBISPO COUNTY GANG TASK FORCE

The San Luis Obispo County Gang Task Force is an information-gathering and enforcement unit created to aid city and county law enforcement agencies. This is accomplished by monitoring gang-related activities and proactive contacts with identified gang members, often through probation compliance contacts. Task force responsibilities include identifying the various gangs and their members, assisting narcotics officers investigating the trafficking of illegal drugs by criminal street gangs, and aiding prosecutors in obtaining enhancement penalties for individuals convicted of gang-related offenses.

ORIGIN

The Grand Jury elected to inquire into the task force's operations in order to inform the county's residents of the extent of the area's criminal street gang problem and the ways in which local law enforcement is dealing with it.

METHOD

Grand jurors interviewed the Sheriff's Department's Chief Deputy along with three present members and one former member of the task force, and collected current and historical data on the county's gang problem and task force operations.

NARRATIVE

The Gang Task Force was formed in 1987 in response to a noticeable rise in gang activity in the county and a realization by law enforcement personnel that gangs were becoming increasingly involved in drug trafficking. This was the impetus for obtaining a federal grant which funded the task force's original complement: one deputy sheriff, one probation officer, one deputy district attorney (half-time), and one clerical employee.

As the county's population has continued to increase, so has the number of street gangs and gang members. According to the most recent data available, there are 31 different gangs in the county with a total of nearly 1100 members. The typical gang member is a 14 to 25 year-old male, although there are some older members. Many of the gangs are composed primarily of Hispanic

youths. Of particular concern to the task force, however, is a recent marked increase in the number of white supremacist or “white power” gangs whose members tend to engage in hate crimes.

Criminal gang activity is certainly not unique to, or even most prevalent in, this county; it is a problem throughout the state, especially in large urban areas, and has been for several decades. To address the issue, the California legislature, in 1988, enacted the Street Terrorism Enforcement and Prevention (STEP) Act. The intent of the law was to prevent or reduce criminal street gang activity by enhancing the penalties for individuals convicted of gang-related offenses.

The California Penal Code defines a criminal street gang as any ongoing organization of three or more people with a common sign or symbol, which has as one of its primary activities the commission of one or more of 25 specified crimes, and which engages in a pattern of criminal gang activity.

Enhancement penalties under the STEP Act can add considerable time to a convicted offender’s sentence. For example, a less serious felony, which normally carries a sentence of 16 months to three years, is enhanced by an additional two to four years. Five years are added to serious felonies, and ten years to violent ones. Enhancement can extend to a life sentence for crimes such as home-invasion robbery or shooting from a vehicle, which results in injury. Witness intimidation, because of its prevalent use by gangs, can also be enhanced to a term of life in prison.

For individuals convicted of gang-related misdemeanors, enhancement penalties can result in a state prison sentence for what would have otherwise been a county jail sentence.

In order to add enhancement penalties, it must be shown at trial that a defendant’s criminal actions promoted or benefited a street gang, and input from the task force has been instrumental in assisting prosecutors toward this end. Intelligence information from the task force is also

essential to local law enforcement agencies in their efforts to investigate and arrest criminal street gang members.

The sheriff recognizes the value of the task force and its contributions to public safety. Criminal street gangs and their associates are the primary players in illegal drug activity in the local area. Methamphetamine use, especially crystal methamphetamine (ice), is at near epidemic proportions in this county. Criminal street gangs, along with using methamphetamine, also manufacture, transport, and sell it. By assisting sheriff's narcotics officers and personnel from other law enforcement agencies, the task force significantly impacts narcotics trafficking in San Luis Obispo County and adjacent areas. The contributions of the task force can be illustrated by citing a few examples of their more recent activities:

- ø The Gang Task Force joined with the Sheriff's Narcotics Unit, County Probation Department, California State Parole, and police departments from Paso Robles, Atascadero, and Grover Beach in an operation focused on 37 residences in the northern portion of the county. Eight adults and four juveniles were arrested, and seizures included methamphetamine, marijuana, drug paraphernalia, counterfeit ID's and social security cards, and a .45 caliber handgun with ammunition.
- ø The task force assisted the Sheriff's Narcotics Unit in locating three marijuana cultivation locations from which 11,865 plants were seized.
- ø The task force worked with the Sheriff's Narcotics Unit and U.S. Customs in investigating criminal street gang members who were importing large quantities of crystal methamphetamine from Mexico and trafficking drugs throughout the county. The investigation culminated in 19 federal and five local convictions.
- ø The task force assisted the San Luis Obispo County Auto Theft Team in a multi-jurisdictional case in Monterey County which targeted several known "Sureno" gang members who were engaged in drug trafficking and auto theft. Approximately 20 search warrants were served which resulted in eleven arrests and the recovery of 48 vehicles.

- ø As a result of a task force investigation into gang and narcotics activities in the southern portion of the county, 17 known gang members and associates were arrested. The charges included parole/probation violations, felony evasion of a police officer, and possession of narcotics for sale.
- ø Additionally, the Gang Task Force's quantifiable achievements relative to arrests, convictions, seizures, and other pertinent areas have through the years consistently exceeded the projected figures delineated in the grant application documents.

These examples are just a few of the Gang Task Force's accomplishments and serve to highlight their important contributions to law enforcement and public safety in San Luis Obispo County. It should also be mentioned that task force members regularly participate in drug and gang prevention programs at local schools and at meetings attended by parents, community leaders, and the general public.

Although the number of gang members in the county has increased nearly tenfold in the past two decades, the make-up of the task force has remained as initially constituted until very recently, when the sheriff added one additional deputy. Since federal monies partially fund the unit with no guarantees for the future, the sheriff would like to see the grant-funded expenditures converted to permanent county funding, and the Grand Jury agrees with him.

CONCLUSION

In the opinion of the Grand Jury, the members of the Gang Task Force are dedicated and professional officers and a genuine asset to county law enforcement.

FINDING

A federal grant, which is subject to withdrawal at any time, continues to be the primary funding source for the Gang Task Force.

RECOMMENDATION

The expenditures for the Gang Task Force should be permanently funded as part of the annual San Luis Obispo County budget.

REQUIRED RESPONSES

- **The San Luis Obispo County Sheriff's Department: Due 05/05/06 (Finding and Recommendation)**
- **The San Luis Obispo County Board of Supervisors: Due 06/02/06 (Finding and Recommendation)**

THE CUESTA COLLEGE NURSING PROGRAM AND THE NURSING SHORTAGE IN SAN LUIS OBISPO COUNTY

According to local medical professionals, there are insufficient numbers of registered nurses to fill the existing vacancies in San Luis Obispo County's four hospitals (Arroyo Grande Medical Center, French Hospital, Sierra Vista Hospital, and Twin Cities Hospital).

ORIGIN

The Grand Jury chose to inquire into the nursing shortage in order to increase public awareness of the issue and to ascertain which, if any, remedial measures might be taken to alleviate the problem.

METHOD

Grand jury members reviewed available literature on the nursing shortage and interviewed nursing and human resources managers at the four hospitals in the county, along with administrators of the nursing program at Cuesta College.

NARRATIVE

The nursing shortage was addressed in a *San Luis Obispo Tribune* article of November 3, 2005, which discussed an expansion of the number of nursing students enrolled in the two-year associate degree program at Cuesta College from 46 to 56.

The expansion was made possible by a \$15,000 donation from each of the four hospitals in the county, the Marion Medical Center in Santa Maria, the George Mee Memorial Hospital in Monterey County, and the Cuesta College Foundation. Similar amounts have been pledged for next year (2007) to continue funding the expansion through the two-year associate degree program. The donations have allowed Cuesta to employ another instructor to accommodate the ten additional students. Ten additional nursing graduates every two years, however, will not eliminate the shortage in our hospitals.

Cuesta also plans to begin a Licensed Vocational Nurse (LVN) training program, which will be one year in length. This program will be partially funded by a \$150,000 private donation from Compass Health. It will not significantly impact the nursing shortage locally, however, since only a limited number of LVNs work at local hospitals. Most are employed by nursing homes and assisted living facilities.

The nursing shortage extends nationwide, although it is particularly acute in California. Among the 50 states, California ranks last in the number of RNs per 100,000 population; and this in a state where 70% of RNs are the products of associate degree programs in community colleges, whereas in many other states emphasis is on baccalaureate degrees from four-year universities or programs of similar length in hospital nursing schools.

The number of young people entering the nursing profession has been steadily declining, and the nursing workforce across the United States is rapidly aging. One third of American nurses are more than fifty years of age, and nursing is a physically demanding profession.

The disinclination among young people to seek a career in nursing is not difficult to understand. Given the current low unemployment rate, many other jobs are available to those entering the workforce. Although the number of male nurses has increased in recent years, nursing remains a predominantly female profession, and young women today have a much greater range of career choices open to them than did their mothers and grandmothers. These factors, coupled with the demands of the job - shift work, weekend assignments, exposure to potentially contagious diseases, and the physical labor involved - compound the problem of attracting an adequate number of qualified people to the nursing ranks.

An additional factor in most parts of California is the cost of housing. Nurses or nursing graduates from many other states are reluctant to relocate to California, especially the coastal areas, because of high real estate prices and rental rates. In some areas of the state - Santa Barbara, for example - hospitals and educational institutions working together have addressed this issue by providing subsidized housing for nurses and other hospital employees.

Locally, salaries are also a concern. The average pay for a nurse with 20 years experience in one of the hospitals in San Luis Obispo County is \$37 per hour, while in San Francisco and Sacramento the rates are \$50 and \$60, respectively.

Hospitals have implemented various strategies to attract qualified personnel, such as sign-on bonuses and relocation reimbursement for nurses already employed by other entities. But these tactics merely redistribute the existing supply of nurses rather than increase it. In some instances, nurses have left one local hospital for another because of such incentives.

Traveling nurses are sometimes utilized by local hospitals to alleviate the shortage. These nurses may reside in other areas of California or in other states. They are employed by traveling nurse agencies, which assign them to requesting hospitals on a contractual basis for 13-week periods. The nurses are paid by the agencies and are also provided with living quarters or are reimbursed for lodging expenses. All of the costs are part of the contractual agreements with the hospitals. But this is neither a long-term nor a cost-effective remedy. Most traveling nurses prefer that lifestyle to a permanent position, especially since all their moving expenses are paid; and the cost to hospitals for a traveling nurse is approximately twice that of a full-time nursing employee.

Hospital monies might be better spent on programs intended to retain good employees. For example, retention bonuses might be offered to current employees rather than sign-on bonuses to new hires.

The working environment for nurses could also be improved where necessary. The use of Certified Nursing Assistants to reduce the RN workload could be expanded. Some of the concepts associated with “magnet hospitals”, where nurses have a greater degree of autonomy and increased involvement in the decision-making process, might also be explored.

While San Luis Obispo County shares the nursing shortage with the rest of the state and nation, we are in one sense better off than many other areas. At the present time there is no serious recruitment problem here. Cuesta College, the only institution in the county offering a degree program for RNs, has a waiting list of qualified candidates, sometimes numbering as many as

200. Moreover, the vast majority of those on the waiting list are local residents, which mitigates to some extent the housing-cost issue as a negative recruiting factor.

Local hospital administrators would like to see Cuesta initiate a second concurrent nursing class, which could effectively double the number of RNs graduating from the college. This, of course, would require a considerable expenditure of additional funds. More money from the state in the form of grants, more from the state budget, more in the way of donations from local hospitals, or probably all three, would be necessary.

Money alone, however, will not eliminate the nursing shortage in the county. Adding a second RN class at Cuesta would require a substantial increase in the number of instructors, and according to program administrators there, such personnel are in short supply. Additionally, there is insufficient clinical space available to expand the program to any significant degree. The RN training curriculum requires that nursing students receive clinical experience working in acute care facilities, such as hospitals. The four relatively small hospitals in the county could not accommodate the increase in students resulting from a second class at the college without assigning them to later shifts, and Cuesta officials believe students need exposure to dayshift work when most of the hospitals' activities take place. And there are no large hospitals or other acute care facilities within reasonable traveling distance where students can gain this experience.

CONCLUSION

The nurses training program at Cuesta College compares favorably with any other in California. Despite a change in admission requirements, which was mandated by the state several years ago, Cuesta has continued to maintain a very low attrition rate for the program. For example, of the 46 students who began the 2004/2005 class, 44 are expected to graduate this year.

Local hospitals have expressed their satisfaction with the Cuesta graduates they employ - they would just like to have more of them. Their support of the college's program is evidenced by the donations made this year - and pledged for next year - to assist in funding the ten-student increase in the current nursing class.

The Grand Jury hopes that the spirit of cooperation between our practicing health professionals and educators continues, and that as a result of that cooperation, creative solutions to the nursing shortage can be found.

REQUIRED RESPONSE

This is an informational report. No formal response is required.

THE SAN LUIS OBISPO COUNTY PLANNING COMMISSION AN ADVISORY BODY - NOT A LEGISLATIVE BODY

The Grand Jury has examined the San Luis Obispo County Planning Commission and reviewed certain of its recent actions. The current structure and operating rules of the Planning Commission allow its decision-making process to be manipulated by personal agenda.

We have also reviewed the legal basis for the Commission and the county's ordinances regarding establishment and operation of the Commission. (Please see Appendix A for excerpts of relevant sections of California laws.) The Grand Jury performed its inquiry with an eye toward examining the Commission's objectivity, accountability, consistency, responsibility, fairness, and the relationship of their actions to housing affordability. Following are our observations, findings, and recommendations regarding the San Luis Obispo County Planning Commission.

BACKGROUND

What a Planning Commission IS NOT

The planning commission, as constituted in San Luis Obispo County, is *NOT* a legislative body. Members are not chosen by the electorate, have no legislative, regulatory, or rule making authority, and each member serves in an advisory capacity at the pleasure of the Board of Supervisors. A planning commission is *NOT* a pulpit for pursuit of personal agendas and it is not a regulatory body.

What a Planning Commission IS

California counties are not required by state law to establish planning commissions. California law requires only that each county have a “planning agency.” The planning agency may be composed of the Board of Supervisors, a planning department, a planning commission, or any combination thereof.

California Government Code Section 65101 allows the formation of planning commissions for the purpose of advising the Board of Supervisors on issues in the unincorporated areas of the county:

From California Government Code §65101(a): “The legislative body **may** create one or more planning commissions each of which shall report directly to the legislative body. The legislative body shall specify the membership of the commission or commissions. In any event, each planning commission shall consist of at least five members, **all of whom shall act in the public interest....**” [*emphasis added*]

Planning commissions are just such advisory bodies. Although Government Code Sections 65102 through 65106 describe certain functions to be performed by *planning agencies*, neither the maximum size, nor the functions and duties of a *planning commission*, are dictated by state law.

The Board of Supervisors has wide discretion in assigning the functions and duties of a planning commission:

From California Government Code §65102: “A legislative body may establish for its planning agency any rules, procedures, or standards which do not conflict with state or federal laws.”

Because a planning commission is appointed and has official status as an agency of a county, commissioners are subject to all the rules and regulations which govern all public bodies in California including, but not limited to, rules regarding conflicts of interest, laws such as the Brown Act, and “sunshine” rules. In San Luis Obispo County each member's term on the commission coincides with the term of the Supervisor who nominated them and commissioners serve at the pleasure of the entire Board of Supervisors. Commissioners are required to “act in the public interest.” They are also subject to conflict of interest rules as set forth in the Fair Political Practices Act.

State law requires that certain decisions of a planning commission must be subject to appeal to the Board of Supervisors. Additional remedies for adverse actions of a planning commission are also provided by both codified law and common law.

NARRATIVE

Genesis of the San Luis Obispo County Planning Commission

The current San Luis Obispo County Planning Commission was established by County Ordinance Number 2692 in 1994. Two earlier ordinances preceded the current ordinance with the earliest dating from 1966. While the current Commission is composed of only five members, one from each Supervisor's district, the 1966 ordinance authorized a total of nine members, including one at-large member to represent agricultural interests.

Rules of the Planning Commission

The Planning Commission has adopted rules for its meetings and proceedings. These rules are stated in the “*RULES OF PROCEDURE*” dated 11/15/99. This document is available for public use and review.

The Planning Commission meets regularly in open, public sessions to discuss matters brought before it. These matters concern such issues as zoning, general plan revisions, and applications for discretionary permits. County Counsel and representative of the planning department staff are available at each meeting to advise and present issues. Members of the public may be recognized and speak at meetings.

The number of voting members needed to take action on an item depends on the issue to be decided. Votes on the General Plan, Land Use Ordinances, and Coastal Zone Land Use require at least three votes in the affirmative to pass. All other issues may be decided by a simple majority where only three members are present.

All business of the Planning Commission must be conducted in open sessions and, to avoid the appearance of bias, commissioners are not to participate in *ex parte* contacts when deliberating and making decisions. According to the Government Code, any such *ex parte* contacts “...shall be reported to the Commission in open public session, including sufficient detail so as to provide adequate information to the other Commissioners and the public as to the substance of the contact.”

Commissioners must not meet in a succession of “smaller than a quorum” meetings to discuss Commission business. This is defined as a “serial meeting” in the Brown Act. In other words, commissioners shall not confer with each other, one-on-one, outside public meetings to plan actions to be taken at public meetings.

It is the duty of the Commission to consider the evidence concerning issues brought before it and to deliberate only the issues at hand. It should not stray from examination of the facts of the issue under consideration into other areas of interest to individual members. Nor should the issues become a stepping-stone to pursue personal agenda. It is the duty of the Commission's members to consider the issues before it by fairly and impartially applying the requirements of county rules, regulations, ordinances, general plan requirements, and rules of the Board of Supervisors to make decisions on the project in question.

Types of Permits

There are two main categories of permit applications. Permit applications, which require only staff review and which do not require a public hearing, are referred to as “ministerial.” Applications for permits requiring only ministerial action can be approved and permits issued without Commission review or other public hearings. When an applicant has met the requirements of a ministerial review issuance of the permit is required.

The second category is referred to as “discretionary” and involves the application of established policy. Discretionary review is required when the issues surrounding an application are not clearly defined and gray areas exist: e.g., cases involving zoning variances, tract maps, and larger commercial and residential projects. In the case of discretionary permits the applicant must present plans and may make adjustments requested by the Planning Department staff before the staff can recommend approval of the application. This can be, and usually is, a long and expensive process. Once the staff has made a recommendation for approval, the application must then be evaluated by the Planning Commission. The Commission must decide if the facts of the case warrant issuance of the permit. If the Commission denies the permit the applicant can then appeal to the Board of Supervisors.

The process of obtaining a discretionary permit often adds costs in excess of tens of thousands of dollars to the base cost of a project. When the project is for housing, this additional cost must be recovered by building it into the price of the homes. It is also not uncommon for an applicant to spend large sums of money meeting the requirements of the planning staff review only to have the project rejected by the Planning Commission, or conditionally approved with expensive and, at times, onerous conditions attached to the approval. The applicant's options are then to either accept the conditions or, if denied, to drop the project, or appeal to the Board of Supervisors to override the Commission. This is definitely a contributing factor to the affordability of housing in this county.

Some Examples of Recent Actions of the Commission

The Grand Jury reviewed several recent actions of the Planning Commission where the Commission's actions either came under unusual public scrutiny, or where they were the subject of specific complaints received by the Grand Jury. Following are brief summaries and comments regarding select cases:

Cambria/San Simeon Plan – The Planning Commission and staff worked for several months prior to November 2005 to prepare the Cambria/San Simeon Community Plan Update. A number of issues, which might be of concern to the California Coastal Commission had been raised by one Planning Commissioner during the study period and had been either rejected or voted down by the other Commissioners. The day before the plan was scheduled for final action by the Planning Commission (an action which would eventually send the plan to the Board of Supervisors), the Planning Department received a letter from the Coastal Commission stating it had the same concerns which the Planning Commission had already discussed and rejected. A question arose as to whether there may have been a request to the Coastal Commission to intervene in the process in a effort to revive discussion of these already rejected issues.

On January 10, 2006, grand jury members contacted the Coastal Commission office to inquire whether there had been contact with any local Planning Commissioner and to question the timing of these last minute concerns. The grand jury members were told there was an order from

Coastal Commission management to put the issues before the Planning Commission post haste. However, when we attempted to discover who was behind the order and how the timing came about, we were unable to obtain definitive answers from the Coastal Commission staff and management.

Nipomo Housing Project – In this case the Planning Commission staff worked for some time with a developer to evaluate a proposed housing project in Nipomo. The project was for 38 homes spaced at ten homes per acre – exactly the density which local zoning called for. The developer had invested thousands of dollars in the design and approval process. He complied with all requirements set forth by the staff, conformed to all zoning regulations, met all other requirements and the planning staff had recommended approval of the project.

At a Commission hearing where the agenda called for discussion of this project only three of the five Commissioner members were present. The Commissioner from the South County (Nipomo) area was absent from the meeting. Two of the Commissioners present wanted to bring the project to a vote while the third Commissioner felt the vote should be delayed since the member from the Nipomo area was absent. Both the staff and the applicant also requested that the Commission not vote on the project at that meeting. However, with only three of the five Commissioners present, two Commissioners were able to force the issue to a vote and voted to deny the project. In this case these two Commissioners were able to kill a project, which, had the full Commission been present, might have been approved.

Based on a review of the transcript of this meeting, in the Grand Jury's opinion, it indicates that the insistence of these two Commissioners to rush the project to a vote while the Commissioner from the Nipomo area was absent appeared to be arbitrary, apparently preordained, and a deliberate attempt to exclude the absent Commissioner from voting on the issue. In the Grand Jury's opinion it also appears, based on the transcript, that discussions between Commission members and third parties may have taken place prior to the public hearing. If so, this could constitute a "serial meeting" as defined in the California Government Code. Upon appeal to the Board of Supervisors, the vote of the two Commissioners was overturned, the project was reinstated, and the permits granted.

PG&E and California PUC – The California Public Utilities Commission (PUC) reviewed a PG&E application for replacement of steam generator and support equipment at the Diablo Canyon Nuclear power plant. The role of the PUC in this case was to determine whether the replacement was justified and whether PG&E could recover the costs from ratepayers. The project required a complete environmental impact report (EIR) for approval by the PUC which was the lead agency for creating this EIR. The PUC's final EIR was sent to the Planning Commission for use in its decision-making process regarding replacement of the steam generators.

The county's role in the process was to evaluate land use issues such as transport and storage of the generators, and construction of facilities to accommodate the replacement work. The only application pending with the county at this time concerned these issues integral to the planned replacement of the steam generators. The Planning Commission's discussions should have been limited to these land use issues.

In the opinion of the Grand Jury, it appeared that an attempt to turn this application into an issue of license renewal for Diablo (scheduled for the year 2014) was made by two Commissioners. Re-licensing of Diablo was not the issue before the Planning Commission and it is an issue over which the Planning Commission has no authority in any event. There was no application pending regarding re-licensing of the Diablo facility. It was not appropriate to attempt to turn this application hearing into an issue regarding possible future re-licensing of Diablo. One Commissioner's refusal to ultimately deal with the issue in a proper manner, and to create an issue regarding re-licensing, resulted in denial of the project and forced the entire issue to be appealed to the Board of Supervisors.

CONCLUSION

It appears that the Planning Commission has attempted to interject itself into matters over which it has no authority and, in the Grand Jury's opinion, has become a vehicle for pursuing the personal agenda of some of its members. Further, decisions often do not appear to be made in a fair, consistent, and impartial manner and appear to reflect personal bias rather than a fair and

impartial review of the facts. The definition of “review of the facts” often seems to be selectively tailored to support a preconceived viewpoint rather than a search for the best and fairest solution to a problem. Decisions often appear arbitrary.

Applicants often do not have a clear understanding of the rules governing the Planning Commission’s actions regarding issuance of permits. These rules and requirements for issuing permits often are a moving target and Planning Commission decisions do not reflect consistent application of the rules between different cases for the same or similar issues.

There appears also to be a lack of accountability for the Commission inasmuch as rules may have been broken and conflicts of interest may exist.

There is the appearance of a conflict of interest, if not an actual conflict, when the jurisdiction of the Coastal Commission extends to matters before the Planning Commission and one of the Commissioners is also an employee of the Coastal Commission.

The rules under which the Commission operates are vague, insufficient, often irrelevant, and are in need of substantial clarification and revision.

FINDINGS

Finding 1: Although each Planning Commission member is appointed by, and serves the Board of Supervisors as a whole, each individual Commissioner is, presumably, most aware of and most closely involved in, issues regarding the district represented by the Supervisor who nominated the individual member. Therefore, that member is the person most likely to be representative of the consensus of the majority of their district.

Finding 2: Under the present five-member structure of the Planning Commission it is possible, when only three Commissioners are present at a meeting, for two Commissioners to rule by simple majority vote in a manner contrary to the will of the majority of Commissioners were all five Commissioners present. This creates the opportunity for personal agenda to rule where fairness might otherwise dictate a different outcome.

Finding 3: An applicant for a discretionary permit has a *reasonable expectation* (albeit not a guarantee) that the requested permit shall be granted when all the County's published and stated requirements for that permit have been fulfilled and the Planning Department staff has recommended that the permit be issued.

Finding 4: Conflicts of interest, or at least the appearance of a conflict, can arise when Commissioners are asked to decide issues where the best interest of the County, and its citizens, may conflict with the interest, intent, or desires of a Commissioner's employer. This is especially true where the Commissioner's employer can exercise regulatory authority in the County over issues coming before the county's Planning Commission.

RECOMMENDATIONS

Recommendation 1: The Board of Supervisors should require that the Planning Commission make every reasonable effort to consider the opinion of the Commissioner in whose district a project is located when deciding an issue regarding that project in that Commissioner's absence. (Finding 1)

Recommendation 2: The Board of Supervisors should increase membership on the Planning Commission to seven members from the current five members. The two additional members should be appointed at large from the county. A unanimous vote of the entire Board of Supervisors should be required for each at large appointee. A quorum of the Planning Commission shall then be not less than four members. Binding votes of the Planning Commission must be by a majority of eligible voting members. (Finding 2)

Recommendation 3: The Board of Supervisors should implement the following rules regarding Planning Commission decisions:

In a case where the Planning Commission votes to deny issuance of a discretionary permit and the applicant has met each of the following three conditions:

- The applicant has met each of the requirements and conditions of the County as set forth by the Planning Department staff for issuance of the permit(s) during the review process and.

- The applicant has complied with all published rules, regulations, and ordinances required for issuance of the permit(s) and.
- The County Planning Department staff has recommended that the permit(s) be granted.

If the applicant then appeals the denial to the Board of Supervisors, the current rules should be changed to reflect the following conditions:

- No charge shall be levied for the applicant's appeal.
- The Director of the Planning Department as an “interested person adversely affected,” (as defined in section 66452.5, subdivision (d) of the California Government Code) may file the appeal with the Board of Supervisors to overturn the Planning Commission's decision. (See also Attorney General's Opinion No. 88-803 – December 1, 1998).
- The Planning Department shall not be required to prepare new findings to support the Commission's position in denying the application and the Board of Supervisors shall review the decision based on the original findings and the stated reasons for denial by the Commission.

These rules should have effect only where the above three conditions has been met. To be binding the vote of the Board of Supervisors must be by a majority of eligible voting members. (Finding 3)

Recommendation 4: To avoid the appearance of conflicts of interest, and to assure the Commission puts the interest of the citizens of San Luis Obispo County first, the Board of Supervisors should implement the following rule:

When a Commissioner is confronted with an issue before the Planning Commission which same issue is subject to authority, or other direct interest of the Commissioner's employer, or in which that Commissioner could otherwise have a personal interest, that Commissioner must refrain from participating in the discussions and deliberations concerning that issue and must not cast a vote on any question concerning that issue. Nor should Recommendation #1 above be operative in this instance. (Finding 4)

Recommendation 5: The Board of Supervisors should implement the following rule regarding Planning Commission members:

Each Commissioner should be required to sign a “Conflict of Interest Statement” which would operate to prevent conflicts of interest of an economic nature, conflicts resulting from incompatible offices, or the appearance thereof. The Statement should reference the FPPC Form 700 disclosure of economic interests of the Commissioner and should state who the Commissioner's employer is as well as any other economic interests relevant to a potential conflict. This Statement should be in addition to the requirements for filing of the Form 700. The Commissioner should agree in the Statement to refrain from participating in any issue before the Commission in which either they or their employer has an interest. Violation of the terms of the Statement should be grounds for immediate discharge from the Planning Commission. (See Appendix 'A' for a discussion and reference to the California Government Code regarding this Recommendation.) (Finding 4)

REQUIRED RESPONSES

- ① **The San Luis Obispo County Department of Planning and Building: Due 05/25/06 (Findings 1 through 4 and Recommendations 1 through 5)**
- ① **The San Luis Obispo County Board of Supervisors: Due 06/26/06 (Findings 1 through 4 and Recommendations 1 through 5)**

ADDENDUM TO PLANNING COMMISSION REPORT

The method used in developing the Planning Commission Report was omitted from the original release of the report. Factual elements of this report were verified with both County Counsel and Planning Department.

METHOD

The Grand Jury:

- Obtained and listened to the recorded transcript of the Planning Commission session during which the Gray Trust project in Nipomo was rejected by the Planning Commission,
- Reviewed votes by the Board of Supervisors upholding appeals from Planning Commission decisions,
- Reviewed public records containing statements of Planning Commission members,
- Reviewed and verified with Planning Department staff the actions of the Planning Commission, and the public record of those actions, during sessions where the following items were docketed for action:
 - Gray Trust Nipomo project
 - Cambria/San Simeon Plan
 - PG&E application for replacement of steam generators
- Received explanations and guidance from County Counsel regarding interpretation of laws regarding planning commission functions and rules, differences between ministerial and discretionary permits, and the requirements for each,
- Reviewed and analyzed the letter from the California Coastal Commission regarding appointment of, and participation by, one of its employees on the San Luis Obispo County Planning Commission,
- Reviewed with county counsel the county's policy on conflict of interest statements and reasons for the county's policy of not advising commissioners regarding conflicts of interest,
- Obtained testimony from witnesses and subpoenaed documents,

- Reviewed California Government Code regarding establishment, status, authority, duties, definitions, and use of planning commissions as a part of the legally required Planning Agency of counties,
- Reviewed county ordinances, copies of which were supplied to us by the County Administrator, establishing planning commissions and the history of planning commission use in San Luis Obispo County,
- Reviewed with County Counsel portions of the Map Act regarding required procedures and appeals from Planning Commission decisions, including this county's election to make planning commission decisions subject to appeal,
- Reviewed with County Counsel portions of the Fair Political Practices Act, and California Government Code, regarding planning commissions and their members,
- Reviewed the Fair Political Practices Act, and California Government Code, regarding conflicts of interest (especially CGC § 87103, (c)), and open meeting laws,
- Reviewed the Planning Commission's own rules for operation,
- Obtained from and reviewed with County Counsel an Attorney General opinion regarding the authority of the Planning Director to act as an “interested person” adversely effected when making an appeal,
- Reviewed current county practices as regards the appointment of planning commission members,
- Interviewed, by telephone, Coastal Commission employees regarding contact with Planning Commission members, and
- Questioned Planning Department staff regarding reasons for extraordinary delays in obtaining permits,

APPENDIX A:

REFERENCE EXCERPTS FROM THE CALIFORNIA GOVERNMENT CODE

66452.5 . . .

(a) through (c) . . .

(d) Any interested person adversely affected by a decision of the advisory agency or appeal board may file an appeal with the governing body concerning any decision of the advisory agency or appeal board. (See also Attorney General's Opinion No. 88-803 – December 1, 1998.)

. 82041. "Local government agency" means a county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, **commission** or other agency of the foregoing.

87100. No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a **financial interest**.

87103. A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, **on the official**, a member of his or her immediate family, or on any of the following:

(a) . . .

(b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.

(c) **Any source of income**, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

87105. (a) A public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100 shall, upon identifying a conflict of interest or a **potential conflict of interest** and immediately prior to the consideration of the matter, do all of the following:

(1) **Publicly identify** the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

(2) **Recuse himself or herself** from discussing and voting on the matter, or otherwise acting in violation of Section 87100.

(3) **Leave the room** until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

87200. This article is applicable to elected state officers, judges and commissioners of courts of the judicial branch of government, members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, **members of planning commissions**, members of the board of supervisors, district attorneys, county counsels, county treasurers, and chief administrative officers of counties, mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities, and other public officials who manage public investments, and to candidates for any of these offices at any election.

87300. **Every agency shall adopt and promulgate a Conflict of Interest Code pursuant to the provisions of this article.** A Conflict of Interest Code **shall have the force of law** and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter.

87500. Statements of economic interests required by this chapter shall be filed as follows:

(g) Members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, **planning commissioners**, and members of the **California Coastal Commission**-one original with the agency which shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(emphasis added)

SHELTER FROM THE STORM - An Inquiry Into Resources for Battered Women in San Luis Obispo County

INTRODUCTION

Women's shelters are safe havens where women and children can go when conditions in their homes become dangerous and may even be life-threatening. These emergency facilities provide room, board, clothing, and support services, for a limited time, to victims of domestic violence.

Domestic violence covers a multitude of behavior ranging from verbal abuse and intimidation to life-threatening physical assault. Battered women often experience many episodes of abuse before they seek help at a shelter. Any woman can get services from a shelter. Rules for acceptance and participation in the programs are the same for everyone, without regard to race, national origin, sexual orientation, age, disability, or marital status.

ORIGIN

Recent surveys estimate that violence exists in 35% of all domestic relationships. Many cases go unreported because of denial, shame, fear, a reluctance to involve police, and a hesitancy by observers to interfere in the relationships of others. The Grand Jury examined the resources available to victims of domestic violence to discover how these programs are reaching those in need in this county.

METHOD

The Grand Jury gathered the information for this report from interviews with the executive directors of the Women's Shelter Program of San Luis Obispo County and the North County Women's Shelter Program. These meetings provided an understanding of the needs of victims of violence and the way the women's shelter programs help individuals and families insure their safety and regain their self-confidence. In addition, the Grand Jury invited the volunteer coordinator of the San Luis Obispo program to present a video tape describing the work of the shelter.

NARRATIVE

There are two non-profit agencies in San Luis Obispo County providing temporary shelters for women and their children who are victims of domestic violence. The Women's Shelter of San Luis Obispo County serves both the City of San Luis Obispo and south county, and the North County Women's Shelter and Resource Center serves the needs of victims in north county communities.

The San Luis Obispo Women's Shelter Program is a United Way partner agency: Fifty-one percent of their funding is community-based, with additional funding from public and private grants. Their paid staff includes an executive director, and a volunteer coordinator who supervises 19 volunteers who have completed 40 hours of training. The location of a shelter house is kept confidential to protect its residents from those who have threatened to harm them.

The North County Women's Shelter and Resource Center operates two safe houses, employs nine full-time workers, and 21 part-time counselors and therapists. Frequently, both agencies work together to insure client access to available emergency shelter and other services on a short-term basis. If families need longer-term accommodations, they can move into transitional housing for six months to two years at a reasonable rate.

Services

Both of these agencies are private non-profit organizations that have contracts with the county Department of Social Services and receive referrals from them and from local law enforcement agencies as needed. The services of these two agencies address a variety of essential needs:

1. **Emergency response hotline** provides access to trained paid staff and/or volunteers who are available 24/7 for crisis counseling, emergency referrals to hospitals, law enforcement, assistance with filing restraining order, and/or emergency shelter.
2. **Room and board for victims** at a secure shelter is available for a limited time (60-90 days). Residents agree to participate in comprehensive programs of individual and group counseling, parenting classes, case management, and advocacy.

3. **Children's classes** are available to teach children how to keep themselves safe, how to manage their own anger, and how to develop healthy, non-violent relationships with peers, neighbors and family members.
4. **Counseling for perpetrators** is available in "Men Helping Men", a program designed to help abusers learn anger management, communication, and parenting skills. This program, which is not associated with either shelter, is often court-mandated.
5. **Legal Assistance** is provided for the completion and filing of Temporary Restraining Orders. A knowledgeable staff member or volunteer may accompany the victim to a court hearing. Victim Witness Assistance is also available to the victims to help them obtain compensation for assault-related injuries and damages due to emotional stress.
6. **Community Outreach Speakers** visit citizens' groups, schools, and other public agencies in an effort to increase awareness about the seriousness of domestic violence and the availability of support services. Classes on dating violence prevention are offered to schools and youth groups.
7. **Transportation** is available to help victims get to medical appointments, court hearings, and job interviews.
8. **Centro de Paz** is an organization that hosts bilingual and bicultural services, which reach out to the Latina community.

CONCLUSION

The Grand Jury commends the Women's Shelter Program of San Luis Obispo County and the North County Women's Shelter and Resource Center for the important services they provide to victims of domestic violence. Recently, the Grand Jury has learned that since the early 1990's a consortium of county mental health and faith-based groups, along with the District Attorney's office, has been working with the women's shelters on a task force: Domestic Violence

Prevention Enhancement and Leadership Through Alliance (DELTA). This group, recently funded by the Centers for Disease Control, includes a domestic violence prevention program with a media campaign targeting men and boys age 18 to 34. Domestic Violence Awareness Month is an annual event each October.

San Luis Obispo County is fortunate to have comprehensive, community-supported programs for victims of domestic violence.

REQUIRED RESPONSE

This is an informational report. No response is necessary.

LOS OSOS COMMUNITY SERVICES DISTRICT

ORIGIN

In response to two citizen complaints, the Grand Jury conducted an inquiry into the lawsuit settlement agreements between the Los Osos Community Services District (LOCSD) and the law firm involved with the settlement negotiations.

The complainants were concerned over the expenditure of *public funds* in the amount of \$488,617 authorized by the LOCSD Board of Directors. Their specific concern is that in addition to paying for the litigation expenses, a portion of the funds may have been used to reimburse the attorneys for work they performed in connection with the LOCSD September 27, 2005 Recall Election and the Measure B ballot initiative. Despite several grand jury requests for detailed billing records and data, neither the LOCSD nor their attorneys were willing to provide information to the Grand Jury to enable us to determine whether any of the settlement money was used to reimburse the attorneys for work performed in connection with the recall election and/or the Measure B initiative.

Definitions:

The following terms are defined for the purposes of this report:

- **Old board** - refers to the LOCSD Board of Directors sitting prior and up to the September 27, 2005 Recall Election.
- **New board** - refers to the LOCSD Board of Directors sitting subsequent to the September 27, 2005 Recall Election.
- **Law firm** - refers to the law firm (Burke, Williams and Sorensen) that represented the plaintiffs in four of the suits and the defendants in the Measure B litigation.

METHOD

The Grand Jury interviewed:

- A complainant
- The current LOCSD Interim General Manager

- A member of the **old board** — who was recalled
- Two members of the **new board** who were also members of the **old board**.

We also requested, through San Luis Obispo County Counsel’s office, detailed time logs and billing records from the **law firm**.

NARRATIVE

Prior to the recall election, two lawsuits were filed against the LOCSD, two suits were filed against the California Regional Water Quality Control Board (RWQCB), and one suit was filed by the **old board** against the Measure B proponents. The **law firm** represented the plaintiffs in the lawsuits against the LOCSD and the RWQCB, and the defendants in the Measure B litigation.

Subsequent to the recall election, the **new board** entered into settlement negotiations with the **law firm**. As a result of the negotiations, the LOCSD entered into five individual settlement agreements covering the five lawsuits. The litigants, case numbers and settlement amounts are outlined in the table below.

Suit	Settlement Amount
CCLO ¹ , CASE ² and Al Barrow ³ vs. SRWQCB ⁴ Case No. 05CS01231	\$41,900
CCLO vs. LOCSD Case No. CV 050060	\$193,620
CCLO vs. SRWQCB Case No. CV041047	\$48,848
CCLO vs. LOCSD Case No. CV 050783	\$79,249
LOCSD vs. CASE and Al Barrow (Measure B) Case No. CV050562	\$125,000
Total	\$488,617
1 - CCLO – Concerned Citizens of Los Osos 2 - CASE – Citizens for an Affordable and Safe Environment 3 - Al Barrow – An individual 4 – [California] State Regional Water Quality Control Board	

The settlement negotiations were discussed during closed-session meetings of the **new board**. During separate interviews with the LOCSD Interim General Manager and two members of the **new board**, we were informed that minutes were not kept during the closed-session meetings. The settlement negotiations were handled between an attorney representing the LOCSD and an attorney from the **law firm**. For each of the settlement agreements, the **new board** was given a single-settlement dollar amount. During the negotiations, the **new board** was not offered *nor did they request* any detailed information or breakdown as to what activities were billed and included in the settlement amounts. The board members agreed to the settlement amounts based upon the recommendation of the attorney representing the **new board**.

In addition, one of the **new board** members stated to the Grand Jury that part of the reason for settling the lawsuits was so the LOCSD could retain the **law firm** for future work.

Two items brought to the Grand Jury's attention indicate there might have been a relationship, which existed in the period prior to the recall election, between members of the **old board**, the litigants, and the **law firm**.

1. During interviews with two members of the **new board**, who were also members of the **old board**, we were told they had contacts with CCLO, and they and CCLO were mutually supportive of each other's efforts during the time prior to the recall election.
2. A press release issued by the **new board** announced the **law firm** had been retained to represent the **new board**. The press release further stated that one of the **law firm's** attorneys was the author of the Measure B ballot initiative.

The Grand Jury made two attempts to obtain the time sheets and billing records directly from LOCSD and the **law firm**. The first instance was via a subpoena issued by the Grand Jury. The LOCSD responded — claiming attorney-client privilege — by refusing to provide us with the complete billing information for its current attorney and lack of information for the **law firm**. In the second instance, an attorney from the County Counsel's office contacted the **law firm's** attorneys directly, and requested the detailed time sheets and billing records. The **law firm's** attorneys agreed to submit the documentation "... with attorney-client privileged information

redacted.” The Grand Jury received the material and upon examination found that information relating to legal tasks performed and billed had been redacted. For each billable task, the material showed only the date, billable time and initials of the person performing the task. The column showing the actual billable task performed has been left blank. As an example, one page of the material provided is included with this report as Appendix A. The only instances in which detailed information was provided were with regard to out-of-pocket expenses such as travel expense, photocopy, etc.

SUMMARY

Since public funds were used to settle the five lawsuits, the Grand Jury feels that the public has a right to know what legal services were rendered and billed, and if the billings were proper. Specifically, were public funds used to reimburse the **law firm** for work done, on the first four lawsuits listed in the above table, in connection with the September 27, 2005 recall election and Measure B initiative and are being included as billings in connection with the litigation work?

FINDINGS

Finding 1: Public funds were used to reimburse the attorneys representing the plaintiffs in the litigation against the LOCSD and the RWQCB and the defendants in the Measure B litigation.

Finding 2: Neither the **new board** nor the **law firm** are willing to provide any detailed information to the Grand Jury regarding the exact nature of the legal services rendered and billed.

Finding 3: The attorneys handling the settlement negotiations did not provide any detailed information to the **new board** regarding the actual legal services rendered and billed.

RECOMMENDATIONS

Recommendation 1: The LOCSD Board of Directors should waive the attorney-client privilege and take other necessary actions to ensure that detailed billing information will be made public to clarify whether, and to what extent, the \$488,617 of *public funds* were used to reimburse the **law firm** for work performed in connection with the recall election and the Measure B initiative, including the initial drafting of Measure B. (Findings 1 & 2)

Recommendation 2: If information, including billing records, indicates settlement funds included billable work performed in connection with the recall election and Measure B initiative, the matter should be referred to the State Bar of California for evaluation and possible further action. (Finding 3)

REQUIRED RESPONSES

- **The Los Osos Community Services District: Due 07/17/06 (Findings 1, 2 & 3 and Recommendation 1)**

Appendix A

The following was taken from the billing records supplied to the grand jury by the **law firm**.

Re:

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08/23/05	{Information Redacted}	2.80	SRO
08/24/05	"	3.60	AEM
08/24/05	"	0.20	CLV
08/24/05	"	1.30	GMM
08/24/05	"	0.30	GMM
08/24/05	"	1.70	JHB
08/24/05	"	1.80	SRO
08/25/05	"	3.90	AEM
08/25/05	"	0.40	CLV
08/25/05	"	2.00	GMM
08/25/05	"	1.00	GMM
08/25/05	"	3.50	SRO
08/26/05	"	3.80	AEM
08/26/05	"	1.00	CLV
08/26/05	"	0.80	GMM
08/26/05	"	3.90	SRO
09/01/05	"	2.60	SRO
09/06/05	"	0.50	GLS
09/06/05	"	0.50	GLS
09/06/05	"	3.70	SRO
09/06/05	"	1.60	SRO
09/07/05	"	2.20	CLV
09/09/05	"	1.30	SRO
09/15/05	"	3.10	JHB
09/15/05	"	1.60	JHB
09/16/05	"	1.50	GLS

STATEMENTS ARE DUE AND PAYABLE UPON PRESENTATION. STATEMENTS NOT PAID WITHIN 30 DAYS ARE
SUBJECT TO A MONTHLY SERVICE CHARGE OF 0.83% PER MONTH (10% PER ANNUM).

AREA ADVISORY COUNCIL RESOLUTION

San Luis Obispo County has a resolution under which ten Area Advisory Councils have been recognized. This report is about the resolution recognizing the councils and its implementation. These councils, although not official functions of county government, receive both limited financial assistance and staff support from the county.

ORIGIN

The Board of Supervisors passed a resolution in 1996 formally recognizing area advisory councils as representing community opinion regarding land use and planning issues. Because advisory councils receive both money and assistance from the county, we have chosen to examine the relationship of county government to these councils.

DEFINITIONS

The Resolution – The resolution passed by the Board of Supervisors in 1996 for the purpose of recognizing Area Advisory Councils. (See Appendices A, B & C)

Councils – Area Advisory Councils.

METHOD

In our investigation of The Resolution recognizing advisory councils the Grand Jury:

- ⟨ reviewed The Resolution recognizing advisory councils and the five conditions the councils must meet to attain that recognition,
- ⟨ reviewed the Board of Supervisors discussion notes prior to passage of The Resolution,
- ⟨ researched state and county laws and ordinances,
- ⟨ reviewed bylaws and election results of several councils,
- ⟨ reviewed available advisory council web sites,
- ⟨ interviewed members of three advisory councils and other interested parties,
- ⟨ interviewed citizens affected by advisory council actions,
- ⟨ attended meetings of three advisory councils,

- ⟨ conferred with County Counsel regarding the legal aspects of the councils and The Resolution,
- ⟨ conferred with the County Administrative Office and County Planning Department regarding the councils and The Resolution,
- ⟨ reviewed the advisory council training manual prepared by the Planning Department, and,
- ⟨ discussed details of advisory council operation with county planning staff and County Counsel.

The main area of concern in this inquiry: Is there a mechanism to verify councils meet the criteria for recognition under The Resolution?

NARRATIVE

The Grand Jury understands and agrees it is not feasible for individual Supervisors to meet with all interested parties in their districts for each planning issue that comes before the Board of Supervisors or the Planning Commission. Advisory councils are groups of private citizens who wish to provide advice to the county Planning Commission and Board of Supervisors on issues regarding planning, land use, and development projects within a defined geographical area of the county.

On December 10, 1996, the San Luis Obispo County Board of Supervisors passed Resolution Number 96-485 (See Appendix A) entitled, “RESOLUTION ESTABLISHING CRITERIA FOR BOARD RECOGNIZED COMMUNITY ADVISORY COUNCILS.” The purpose of this resolution was to “set criteria by which the advisory councils could be recognized by the Board of Supervisors as representing the views of the area they purport to represent.”¹ According to County Counsel and County Administration, the Resolution was worded with the intent that councils can be recognized as speaking for their communities but do not become official agencies of county government. The councils were left to decide their own method of operation, by-laws, how their members are selected (or elected), and other issues of interest to the councils.

¹Definition provided by County Counsel.

There are **five criteria** set forth in The Resolution, which these groups must meet to gain recognition:

1. “A community advisory council must be based in and represent a defined community within an established Urban or Village Reserve Line, which can include representatives from outlying or surrounding unincorporated areas associated with the community.”
2. “Community advisory council membership should reflect a broad cross-section of the community.”
3. “Advisory council meetings should occur regularly and be publicly noticed in a timely manner, and open to all members of the public.”
4. “Advisory council bylaws will be established and maintained which direct the organization and protocol of the council. These should include a statement of purpose, rules of order, frequency of meetings and method of appointment of subcommittees, and appointment or election of council members.”
5. “Recommendations made by the advisory council and forwarded to the Board of Supervisors or Planning Commission should be arrived at by majority vote of a quorum of the membership, with as much public input as is feasible.”

These conditions are sound, reasonable, and clear enough to avoid confusion and give guidance to the councils regarding what is expected. **The Resolution does not specify how councils should apply for recognition and contains no mechanism to verify compliance with the criteria.**

There is nothing to prevent multiple councils from applying for recognition in a single area – in which case the question of which one is the true representative of the area must be addressed. As a practical matter, the decision to recognize a council is at the sole discretion of the Supervisor for the district in which the council will operate. Supervisors have the authority to “sponsor” various advisory groups in their districts. As long as The Resolution is in existence, there should be a method of verifying that its criteria are met.

Training

Advisory councils receive training from the county's Planning Department on issues which may come before the councils. This training currently does not stress the limited role of these councils as "advisory" groups only. Nor is the legal status of the councils made sufficiently clear during the training period or in the training manual furnished to members.

For example, the *first sentence* of the training manual currently states, "One of the duties assigned to Community Advisory Councils is the responsibility to review general plan and development projects that are proposed in their community." This implies that the county has assigned official duties to the councils.

Controversies

Although there are many instances where the council actions receive little attention, recently a kaleidoscope of controversies, confrontations, and disputes has arisen. Incidents have occurred where councils have been dissolved, and disputes have arisen between rival factions as to which one truly represents the community's viewpoint. Some councils have split along factional lines and often appear to be more of an advocacy group than an advisory group. One council has even disregarded its own bylaws.

Because The Resolution does not specify or require a clearly defined geographical area for each council, turf wars have developed. Some councils claim to represent areas where they have been solidly rejected by segments of the public which they claimed to represent.

State laws regulate the processing of permit applications and set time limits for review and action on permit applications. (See Government Code Sections 65920-65963.1, also known as the "Permit Streamlining Act".) There have been instances where advisory councils have not acted in a timely manner and applications have been held up awaiting input from a council.

Interest in participation by the public is generally apathetic and council seats often go unfilled for lack of candidates. Supervisors have had mixed results with some of the councils.

The councils' claims of representing a broad cross-section of public opinion are not always reflected in their composition and position on many issues.

Public response to the actions of the councils has frequently been outspoken, and even hostile. Much of the controversy surrounding the councils arises because other residents of the community frequently do not share the same views as expressed by the council.

A Common Public Misconception

There is a misconception among the general public that advisory councils have some type of governmental authority over land use issues. This misconception probably evolved from two main factors which are not addressed in The Resolution:

1. The Planning Department lists advisory councils on permit applications as a “check-off” box in the approval process.
2. In some instances councils deliberately try to create the impression that they are governmental agencies and have authority over planning and land use issues in their areas.²

The County's Risk Exposure

County Counsel has recognized that advisory council actions can lead to litigation involving the county. The county is generally obligated to defend advisory council members in litigation arising from their actions, and the county indemnifies members against loss in such litigation.

The county's obligation to defend advisory council members is set forth in an Office Memorandum, dated November 27, 2000, (See Appendix D) in which County Counsel defined the conditions under which the county, “. . . will defend and indemnify advisory committee members who are subject to claims or litigation as a result of the participation of those members in the activity of the committee as long as they are not acting with fraud, corruption, or malice.”

² The Nipomo Advisory Council stated on their web site that they are a “governing body” -- later changed to “governing council.” They also have taken a web address in the domain of **.ca.gov** which customarily identifies official California government agencies.

Specific restrictions are placed on the county's obligation to defend council members by language included in the memorandum regarding “personal animosity or bias.” Whether the actions of some councils constitute “fraud, corruption, or malice,” or “personal animosity or bias” is a matter for the courts to determine. Without enforcement of the criteria in The Resolution, it is conceivable The Resolution could work against the county in litigation.

CONCLUSION

It is clear that the concept of advisory councils, when properly implemented, can be a valuable aid to Supervisors and planners, and can produce credible results which lead to better government and improved communities. The product of the councils' endeavors should be representative of a broad cross section of community opinion. Advice received from councils, which do not meet the criteria of The Resolution, can increase the county's liability exposure.

FINDINGS

Finding 1: There is no method or mechanism for verifying whether applicants for council status, or existing councils, meet the recognition criteria set forth in The Resolution.

Finding 2: Multiple groups can lay claim to advisory council status in the same area.

Finding 3: Advisory councils are listed as a “check-list item” on applications for county building permits.

Finding 4: Advisory councils receive training from the Planning Department.

Finding 5: County Counsel is obligated to defend legal actions against advisory councils and the county must indemnify councils against losses in litigation.

Finding 6: Certain discretionary permit applications must be acted upon within time constraints defined by state law.

RECOMMENDATIONS

These recommendations assume the current resolution (Resolution Number 96-405) will remain in effect.

Recommendation 1: The Board of Supervisors should assume responsibility for assuring the conditions of The Resolution for recognition are met. The Resolution should be amended to establish a procedure for determining if groups applying for or claiming advisory council status meet the requirements of The Resolution. (Finding 1)

Recommendation 2: The Board of Supervisors needs to implement a method of resolving conflicts which arise from applications for recognition by competing councils in the same area. (Finding 2)

Recommendation 3: All check-off items and other references to advisory councils should be removed from all county permit application forms. A side-letter should be made available to all permit applicants informing them of the advisory councils purpose, legal status, and role (or lack thereof) in the approval process. (Finding 3)

Recommendation 4: The Planning Department should reassess training of advisory council members and the manual used for this purpose to assure they include an extensive section explaining the purpose, reason for existence, role in the approval process, and legal status of the councils. It should clearly explain their role is strictly confined to soliciting community input for the purpose of giving advice during the approval process. The first sentence (and any subsequent sections) of the training manual for council members should be revised to eliminate any implication that official duties are assigned to the councils. (Finding 4)

Recommendation 5: Training should make clear that members are responsible for their individual actions on the council as well as the collective actions of the council. They should be apprised of the fact that there is a potential for legal liability for their actions. This portion of the training should be conducted by County Counsel. (Findings 4 & 5)

Recommendation 6: County Counsel should provide council members with an explanation clearly defining the conditions under which the county will, or will not, provide legal defense and indemnification to the councils and their members. (Finding 5)

Recommendation 7: Advisory councils should respond to issues within the same time frame as is required of the Planning Department if their advice is to be considered. (Finding 6)

REQUIRED RESPONSES

- **The County Department of Planning and Building, Due 7/21/06 (Findings 3, 4, & 6 and Recommendations 3, 4, 5, & 7)**
- **County Counsel, Due 7/21/06 (Findings 5 & 6 and Recommendations 5, 6, & 7)**
- **The San Luis Obispo County Board of Supervisors, Due 8/23/06 (All Findings and Recommendations)**

Appendix A

Discussion of a Resolution Establishing Criteria for Board-Recognized Advisory Councils

BOARD OF SUPERVISORS

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO, CALIFORNIA 93408 • 805-781-5450



LAURENCE L. LAURENT
DISTRICT TWO

TO: BOARD OF SUPERVISORS
Laurence L. Laurent
FROM: LAURENCE L. LAURENT, CHAIRMAN, BOARD OF SUPERVISORS
DATE: DECEMBER 10, 1996
SUBJECT: DISCUSSION OF A RESOLUTION ESTABLISHING CRITERIA FOR BOARD-RECOGNIZED ADVISORY COUNCILS

SUMMARY

The Board of Supervisors, as well as the Planning Commission and County staff, values the perspective and recommendations of community advisory councils. To assure that these advising bodies truly represent the communities for which they speak, and to assist in the formation of future advisory councils, a set of guidelines establishing a minimum criteria is needed.

RECOMMENDATION

It is recommended that the Board of Supervisors adopt the attached Resolution Establishing Criteria for Board-Recognized Advisory Councils

DISCUSSION

The Board of Supervisors relies on credible information and local input when making decisions that affect communities. Advisory councils assist in this purpose. While any group of citizens has the right to organize, meet, address the Board and express their opinions, the findings and recommendations of elected or appointed advisory councils should carry more weight. The attached criteria have been established in order to distinguish between duly elected or appointed councils and more loosely formed, self-appointed ones.

OTHER AGENCY INVOLVEMENT

County Administrative staff assisted with the language and concepts expressed in the guidelines. The Board of Supervisors, Planning Commissioners and County staff are all requested to circulate the adopted criteria to existing advisory councils and those which may form in the future.

FINANCIAL CONSIDERATIONS

None.

*E-1
12-10-96*

Appendix B

Board of Supervisors Resolution No. 96-485

Resolution Establishing Criteria for Board-Recognized Community Advisory Councils

06/14.0101

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

---Tues--- day ---December 10---, 19 96

PRESENT: Supervisors Harry L. Ovitt, Evelyn Delany, Ruth E. Brackett, David Blakely, and
Chairperson Laurence L. Laurent

ABSENT: None

RESOLUTION NO. 96-485

**RESOLUTION ESTABLISHING CRITERIA FOR
BOARD-RECOGNIZED COMMUNITY ADVISORY COUNCILS**

The following resolution is hereby offered and read:

WHEREAS, the Board of Supervisors values the input of community advisory councils;
and

WHEREAS, the Board of Supervisors wants to make sure that advising bodies
addressing the Board of Supervisors on current and future planning matters in the
unincorporated areas actually represent the communities for which they speak; and

WHEREAS, the Board of Supervisors wishes to establish a consistent set of guidelines
to assist in the formation of future community advisory councils.

NOW, THEREFORE BE IT RESOLVED, that in order for a community advisory
council to be recognized by the San Luis Obispo County Board of Supervisors as being a
representative body, it must meet the following criteria:

1. A community advisory council must be based in and represent a defined community within an established Urban or Village Reserve Line, which can include representatives from outlying or surrounding unincorporated areas associated with the community.
2. Community advisory council membership should reflect a broad cross-section of the community.
3. Advisory council meetings should occur regularly and be publicly noticed in a timely manner, and open to all members of the public.
4. Advisory council bylaws will be established and maintained which direct the organization and protocol of the council. These should include a statement of purpose, rules of order, frequency of meetings and method of appointment of subcommittees, and appointment or election of council members.
5. Recommendations made by the advisory council and forwarded to the Board of Supervisors or Planning Commission should be arrived at by a majority vote of a quorum of the membership, with as much public input as is feasible.

Upon motion of Supervisor Delany, seconded by
Supervisor Blakely, and on the following roll call vote, to wit:

AYES: Supervisors Delany, Blakely, Chairperson Laurent

NOES: Supervisors Ovitt, Brackett

ABSENT: None

The foregoing resolution is hereby adopted.

Laurence F. Laurent
Chairman, Board of Supervisors

ATTEST:

JULIE L. RODEWALD

Clerk of the Board of Supervisors

BY: Cheri Casper Deputy Clerk

APPROVED AS TO FORM
AND LEGAL EFFECT

JAMES B. LINDHOLM, JR.
COUNTY COUNSEL
SAN LUIS OBISPO COUNTY

By J. C. G.
Deputy County Counsel

Date 12/2/96

STATE OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO } ss

I, JULIE L. RODEWALD, County Clerk of the above
and said County, do hereby certify that the Board of
Supervisors of said County, on the 20th day of
December, 1996, did pass and adopt the foregoing
resolution, and the same was entered in the
minutes of said Board of Supervisors, and now remain-
ing of record on my office.

Witness, my hand and seal of said Board of Supervi-
sors this 20 day of Dec

19 96

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk
of the Board of Supervisors

By Cheri Casper
Deputy Clerk

Appendix C

Public Comments In the Matter of Resolution 96-485

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tuesday, December 10, 1996

PRESENT: Supervisors Harry L. Ovitt, Evelyn Delany, Ruth Brackett,
David Blakely, Chairperson Laurence L. Laurent

ABSENT: None

In the matter of **RESOLUTION NO. 96-485:**

This being the time set for consideration of a resolution establishing criteria for Board recognized advisory councils. Supervisor Laurent addresses the letters that have been sent to the Board. Mr. Robert Hendrix, Administrative Officer, explains the item. Supervisor Laurent states the Board wrestled with this resolution; not designed to cut off any input from the public; purpose is to establish consistency. Mr. Pat Mackie addresses democracy; feels by adopting the resolution the Board will restrict public input; public feels participation is removed; questions the logic. Mr. Eric Greening questions the objective. Ms. Peggy Wilson concurs with both Mr. Mackie and Mr. Greening; discusses how the resolution reads; urges the Board to reject the resolution. Mr. Cliff Smith, North Coast Advisory Committee (NCAC), states the NCAC has not had enough time to meet and create a consensus; resolution is not well thought out; questions the Board's vision; believes there is a need for more public involvement. Mr. Bob Roos, Templeton Area Advisory Group (TAAG), believes this is an unnecessary resolution; states community groups are all different; questions what problem the Board is trying to resolve. Ms. Kat McConnell, NCAC, applauds this endeavor; people need to attend their local meetings; feels this is in the best interest of the County. Ms. Jo Ellen Butler states her experience is only with the NCAC; believes the County allows people to express their thoughts. Mr. Pat Veasart questions where the Sierra Club fits in; states his concerns for the language in the staff report regarding "inclusionary" and "exclusionary"; addresses citizens input. Mr. Bob McDonald states that Advisory Councils are very important to the community. Mr. Paul Reynolds, CSA 9 Advisory Board, questions noticing. Mr. Bill Allen states he is associated with the NCAC; feels elected advisory councils represent everyone in their community. Mr. Joe Kelly speaks regarding credible information; Salinas River Plan; uninformed public; suggests leaving the issue alone. Mr. Mike Phelan states that only the elected should have a voice. Supervisor Laurent explains the intent of the resolution; agrees to the removal of number 2; suggests changing number 5, the word "shall" to "should". Supervisor Ovitt addresses the hypocrisy; states he does not support this resolution due to the diversity

12 E-1

issue; speaks regarding flexibility in advisory groups. Supervisor Blakely states it is critical to encourage people to participate; addresses the intent of the resolution. Supervisor Brackett states it is a sad day when the Board promotes a premise that a group brings more weight than an individual; advisory group meetings are to flush out issues; states she does not support the resolution believes it is to restrictive. Supervisor Laurent questions Mr. James Lindholm, County Counsel, regarding amending the resolution and being in line with the Brown Act. A motion by Supervisor Delany to approve the resolution by amending it as follows: 1) deleting the second sentence in No. 2., 2) in No. 3 - is amended to read : " Advisory council meetings should occur regularly and be publicly noticed in a timely manner, and open to all members of the public.", 3) No. 5 the word "shall" to be changed to "should", and, 4) delete No. 6, is discussed. Mr. Lindholm responds to a question asked earlier by Supervisor Laurent. Matter is fully discussed and thereafter, on motion of Supervisor Delany, seconded by Supervisor Blakely and on the following roll call vote, to wit:

AYES: Supervisors Delany, Blakely, Chairperson Laurent

NOES: Supervisors Ovitt, Brackett

ABSENT:None

the Board amends the resolution as follows: 1) deletes the second sentence in No. 2.; 2) No. 3 is amended to read: "Advisory council meetings should occur regularly and be publicly noticed in a timely manner, and open to all members of the public."; 3) No. 5 the word "shall" is changed to "should"; 4) No. 6 is deleted and, **RESOLUTION NO. 96-485**, resolution establishing criteria for Board-Recognized Community Advisory Councils, adopted as amended.

cc: Board of Supervisors
12/26/96 vms

STATE OF CALIFORNIA)
) ss.
County of San Luis Obispo)

I, JULIE L. RODEWALD, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of the said Board of Supervisors, affixed this 26th day of December, 1996.

(SEAL)

JULIE L. RODEWALD
County Clerk and Ex-Officio Clerk of the Board of Supervisors

By *Vicki M. Melby*
Deputy Clerk

Appendix D

Office of County Counsel

Defense and Indemnity for Advisory Group Members

COUNTY OF SAN LUIS OBISPO
OFFICE MEMORANDUM



TO: SUPERVISOR "KATCHO" ACHADJIAN
Board of Supervisors

DATE: November 27, 2000

FROM: Office of County Counsel

SUBJECT: Defense and Indemnity for Advisory Group Members

ISSUE

County Counsel Jim Lindholm asked that I respond to your questions concerning the County's defense and indemnification of members of advisory groups who assist the County in formulation of various policies, in particular, on land use issues.

CONCLUSION

The County of San Luis Obispo will defend and indemnify advisory committee members who are subject to claims or litigation as a result of the participation of those members in the activity of the committee as long as they are not acting with fraud, corruption or malice.

DISCUSSION

Advisory groups in San Luis Obispo County are private associations which have undertaken the study of various land use projects and policies for the sole purpose of giving input to official County boards and commissions, such as the Planning Commission and Board of Supervisors. Such groups have assisted in all supervisorial districts by letting appointed and elected officials gain an understanding of each community's concerns. The valuable nature of the work of these groups has been formally recognized by the Board of Supervisors as recently as your last Board meeting.

The County has had a long-standing policy of treating County volunteers as employees for purposes of providing defense and indemnification from claims and lawsuits. The County has

Supervisor "Katcho" Achadjian
Re: Defense and Indemnity for Advisory Group Members
November 27, 2000

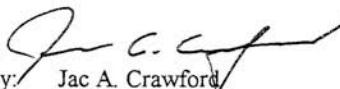
adhered to the Tort Claims Act by treating volunteers in the same fashion it does employees, by recognizing that a volunteer acting within the scope of their duties performed on behalf of the County would be entitled to defense and indemnity provided their actions have not been taken because of fraud, corruption, or malice. This means that for claims arising out of advisory decisions taken by a recognized community advisory group, and for activity directly related to those decisions, the County would be responsible for defending individual advisory board members who are the subject of claims or litigation. With regard to the provision that an advisory board member not act with fraud, corruption, or malice, this generally requires that advisory committee member avoid making recommendations on the basis of personal animosity or bias against a project proponent or opponent.

We have discussed this letter with County Risk Management, and Mr. Giumini has concurred with our advice.

Thank you for bringing this important issue to our attention.

Very truly yours,

JAMES B. LINDHOLM, JR.
County Counsel


By: Jac A. Crawford
Assistant County Counsel

JAC:ep:mja
cc: Art Giumini, Risk Management
David Edge, County Administrator
Supervisor Shirley Bianchi
Supervisor Harry Ovitt
Supervisor Peg Pinard
Supervisor Mike Ryan
PBS 1095epitr.wpd

BICYCLE RIDING IN SAN LUIS OBISPO COUNTY:

“Sharing the Road”

The bicycle is the most common form of mechanical transportation in the world. It is recognized as a form of efficient, clean and quiet transportation. In many countries like Denmark, the Netherlands and China, bicycle commuters far outnumber motor driven commuters; worldwide, bicycling is second only to walking as the dominant means of transportation.



The modern multi-speed bicycle was invented in the 1890s. The bicycle became so popular that the first paved streets and roads in this country were designed for the bicycle. Shortly after the introduction of the multi-speed bike, the horseless carriage rolled onto the scene. As the early automobile made its way onto urban streets and country roads, the bike vs. car tension began. A new issue emerged: Can the bicycle and the automobile safely exist together in harmony? Today in the US, as the automobile dominates the roadways, the tension is greater than ever, and there is still the issue of safety.

ORIGIN

The Grand Jury feels an inquiry into the safety of bicycle use in San Luis Obispo (SLO) County is warranted. After observing numerous bicyclists failing to follow basic traffic laws, members of the Grand Jury were concerned about the safety of cyclists in the County.

METHOD

The Grand Jury's research included:

- ⦿ Interviews with local law enforcement agencies and the California Highway Patrol
- ⦿ Interviews with a local cycling club and cycling advocates
- ⦿ An interview with a representative of the San Luis Obispo County Bicycle Advisory

Committee

- ⊖ An interview with a representative from the San Luis Obispo County Bike Coalition
- ⊖ Interviews with San Luis Obispo County Public Works staff
- ⊖ Review of the California Vehicle Code Sections covering bicycle operation
- ⊖ Review of statistics in San Luis Obispo County regarding fatalities, injuries and personal property damage related to bicycle accidents
- ⊖ Review of League of American Bicyclists 'BikeEd' bicycle safety course
- ⊖ Review of funding sources for bicycle safety programs and infrastructure
- ⊖ Review of the Federal Highway Administration Safe Routes to School Program

NARRATIVE

San Luis Obispo County is one of the premier bicycling areas in California. The county's weather, gorgeous scenery, rolling terrain, and relatively low automobile traffic volume attract cyclists from all over the state and the country.

Share the Road — For over a century, motorists and bicyclists have vied for the finite amount of space on roads and streets. The automobile has replaced the bicycle as the dominant means of transportation in this country. Yet the efficient, flexible and environmentally sound bicycle continues to fight for its place on public streets and roads.

Some motorists perceive the streets and highways as conduits for motorized traffic, and see cyclists as an impediment. On the other hand, some cyclists defend their intrinsic right to use the roadways but believe compliance with some traffic laws is only meant for motorized traffic. Both sides of this debate complain that it slows them down.

According to the Federal Energy Information Administration, nearly 63% of the oil we consume is to power cars and trucks. In an effort to reduce oil consumption, government agencies and environmental and transportation experts encourage the adoption of transportation alternatives. Bicycles are praised as a culturally and environmentally healthy mode of transport.

Bicycle use will continue to grow as an integral component of our future transportation system. The automobile culture will encounter many more bicycles on the streets and roads (keep in mind that over 95% of cyclists also drive cars).

Retail bicycle sales have seen a modest increase in the past two years. Sales of large automobiles are down substantially, and small, fuel-efficient car sales are booming. The key to coexistence is learning to share the road legally and respectfully.

Bicycle Accident Statistics — Following is a table displaying the bicycle-related accident statistics in the unincorporated areas of the County. The data source for the table is page six of the 2005, *County Bikeways Plan*.

Bicycle-Related Accident Statistics in Unincorporated Areas of SLO County							
5-Year Blocks*	Accidents #	Bike at Fault #	Bike at Fault %	Auto at Fault #	Auto at Fault %	Other Fault %	Fatalities #
2000-2004	65	31	48	25	38	14	0
1995-1999	82	54	66	21	26	8	2
1990-1994	128	102	80	23	18	2	2
# = Number % = Percent							

* No figures for 2005 available.

Analysis of the table, *Bicycle-Related Accident Statistics*, indicates that the number of bicycle accidents has declined 49% in the last 15 years. The statistics for accident responsibility reveal that cyclist fault dropped by nearly 70% while automobile fault increased 8%.

Based upon complete data from the 15-year period from 1990 through 2004, there is a strong trend toward increased bicycling safety. The data show a steady and dramatic decline in cycling accidents and cyclist-caused accidents in the last fifteen years. Whether the reduction is a result of improved safety education, more effective regulation or public awareness, cycling is safer today than 15 years ago.

Education — Few of us can forget the joy in receiving our first bicycle. Yet, how many of us remember being taught our new bike was a vehicle; and we had the same rights and responsibilities as any motorist behind the wheel of a car? How many of us were told the new bike was not a toy but a mode of transportation? Most our parents told us to stay out of the way of cars and stop at stop signs.

Today, many Americans still see cycling as a means of recreation rather than serious transportation. The League of American Bicyclists (founded as the League of American Wheelmen in 1880) offers a series of comprehensive cycling safety courses for every skill-level and age of rider. This series of courses (BikeEd) provides bicyclists and motorists alike with the essentials for safe cycling. The San Luis Obispo Bicycling Club (SLOBC) offers this quality training to the public at no cost. For years, the SLOBC has been providing free helmets to juvenile riders as another commitment to safe cycling. The San Luis Obispo Bike Coalition offers additional bicycling safety training. The SLO Bike Coalition is an organization of cycling advocates and a variety of bike-friendly, local businesses that promote increased walking and bicycling for daily transportation and recreation. Every two months the Bike Coalition teaches a safety course for experienced cyclists.

Ideally, teaching safe bicycling must start with elementary school age children. Children must be taught that when bicycles are ridden on streets and roads, they are vehicles not toys. Some local schools in the county allow a child to ride a bike to school only after the child first passes an annual “bicycle safety test.” Some schools offer “bike rodeos” which test the young participants’ bike handling skills. Unlike “BikeEd,” the programs fail to teach essential bicycle safety and the concept of “being visible, predictable, and legal” to young cyclists.

The benefits of vehicle safety training can be remarkable. For example, in 1988, California implemented a mandatory motorcyclist safety-training program. In the first nine years of the training program, California saw a 67% drop in motorcycle crashes and a 69% drop in motorcycle crash fatalities. California and national highway safety experts credit this pre-licensing safety-training program and mandatory helmet laws as the basis for the major reduction in motorcycle fatalities.

Bicycle clubs and coalitions are working constantly to educate cyclists to be safe riders. Judging from data presented in the *Bicycle-Related Accident Statistics* table, these groups appear to be meeting with some success.

Enforcement — Bicyclists, like motorists, are required to obey all traffic laws. Every person riding a bike on a street or highway has all the rights, and is subject to all the rules applicable to the driver of a motor vehicle (Vehicle Code 21200). This means stopping at stop signs and traffic lights, signaling before turning, staying far to the right as a slower vehicle, etc. Bicycles ridden at night are required to have reflectors and ample lighting. Smart night-riders go beyond what is required, by wearing reflective clothing and ensuring they are readily visible front, back and sides.

Ask almost any motorist if he or she has seen a cyclist disregard a traffic law and you'll likely get a positive response. Ask almost any cyclist the same question, substituting car for cyclist, and you'll get the same response. The Grand Jury heard testimony from law enforcement personnel, bicycle advocates, local bike club members and motorists. All agreed: numerous cyclists disregard the traffic laws to a degree that creates a hazard for them and, to a lesser extent, motorists. The most common traffic citations issued to cyclists in the City of San Luis Obispo are (1) running stop signs and traffic lights, (2) no helmet, (3) riding on sidewalks and (4) wearing earphones.

Interviews revealed enforcement of traffic laws with regard to cyclists is not a top priority for local law enforcement agencies or the California Highway Patrol (CHP). Limited law enforcement staffing is the biggest obstacle to enforcing of traffic laws regarding cyclists. The limited supply of traffic officers cannot meet the enforcement demands of cyclists and motorists. As a result of recent state budget cuts, local law enforcement agencies have had to reestablish enforcement priorities.

To the ire of many motorists and frustration of many cyclists, automobile traffic consumes most of the traffic-related law enforcement. There is good rationale behind prioritizing traffic

enforcement on cars rather than bicycles. If an auto runs a red light or a stop sign, causing an accident, the odds are the accident is more likely to result in multiple injuries and major property damage. On the other hand, if a cyclist runs a red light, and an accident occurs, it is likely the only injury is to the cyclist.

On occasion, in response to citizen complaints, the City of San Luis Obispo has targeted cyclists for increased traffic enforcement. The result was a minor increase in bicycle compliance coupled with a major increase in complaints, from both cyclists and motorists, that the police were ignoring motorist violations and unfairly targeting cyclists. For the City of San Luis Obispo, it was a ‘no-win’ exercise.

Engineering the Infrastructure — Currently, the County of San Luis Obispo owns and maintains over 100 miles of bikeways. Since 1992, over 50 miles of bikeways have been added to the county’s inventory of bike routes.

Maintenance of bike lanes typically consists of sweeping road debris (broken glass, rock, sand, etc.) from the bike lanes and surface repair (potholes, washouts, cracks, etc.). Bike lane maintenance is either done on a scheduled or an as-needed basis. To the cycling community, bike lane maintenance is absolutely critical in providing and sustaining a safe and viable bike route. Broken glass, debris and road surface irregularities can cause a bike rider a flat tire or a serious fall. If a bikeway is littered with debris or is too rutted or cracked for safe bike handling, the cyclist is forced to ride in the traffic lane (legal for cyclists in cases like this), which can be dangerous for both motorists and cyclists. Bikeway maintenance is most often mentioned in complaints and lists of cycling community needs. Clean, well-maintained bikeways are essential to safe bicycling.



Providing enough shoulder width for bike lanes on rural roads is not always possible. In cases where there is no shoulder or where road conditions make a bikeway impractical (gravel surfaced

roads), cyclists have little or no separation from traffic lanes. Bike lanes are typically marked with a stenciled bicycle, and often streets and roads have signage cautioning motorists of cyclist presence. Signage is needed on all roads without bikeways, warning both cyclists and motorists to use caution and share the road.



Each year, local bicycle clubs and cycling advocates provide the County with a list of issues that concern the cycling community. That list, “Unmet Bike Needs,” consists of infrastructure projects and maintenance-needs which local cyclists identify as important to safe bicycling. Of the 34 items on the current list of cycling needs, nearly half are maintenance issues. The remainder is requests for

bikeways, or portions thereof, to be constructed between communities or areas of concentrated population activities. The County currently has a list of 109 bikeway projects to be constructed, most of which have been on past cycling needs lists.

The County Public Works Department and the San Luis Obispo Bicycle Advisory Committee (a SLO City cyclist advisory group) meet on a quarterly basis to review cycling-related issues, including progress on the “Unmet Bike Needs” list. The Bicycle Advisory Committee provides oversight and policy direction on matters related to bicycle transportation in San Luis Obispo and its relationship to bicycling outside the city.

Funding and Promotion — The Grand Jury examined a number of legislative bills, regulations, and programs that provide funding or support for bicycle use. According to the 2005 *County Bikeways Plan* funding sources include:

- ⊖ State gasoline taxes — This is a source of revenue that is expected to decline over time as more fuel-efficient cars are used and as a result of state budget shortfalls.
- ⊖ General Fund — Not a reliable source as expenditures in other areas of government increase.

- o Local sales tax and assessment districts — Not reliable, as both require public support for tax increases and assessments.
- o Transportation legislation — The California legislature provides a moderate level of funding for traffic projects throughout the state. Grant funding includes money for transportation, traffic safety, and bikeways projects. However, obtaining these grants is a highly competitive process.

An example of a transportation legislation program is the Bicycle Transportation Account (BTA). The 2006-07 BTA program provides approximately \$5 million for bicycle projects. Local agencies can only submit one application and compete on a statewide basis for these funds. Competition for BTA funds is significant. In 2001 the State of California received over \$29 million in requests for BTA funding, but only 25% of those requests could be funded.

- o Air quality mitigation — California and county coalitions provide a moderate level of grant funding for alternative transportation and clean air projects. In southern SLO County, an air quality impact fee is administered by a coalition of county agencies. The fee generates revenues to support transit improvements, park-and-ride lots and bicycle facilities.
- o Clean Air and Transportation Act — In 1990 an initiative ballot measure to fund a variety of alternative transportation projects, including bikeways. The SLO County region received \$10 million to divide among the county and the seven incorporated cities. The voters have defeated subsequent similar bond measures, so it is unclear whether there is a reliable future in this type of funding.
- o Development impact fees and developer extractions — Both of these funding approaches rely on new development but only to the extent of mitigating the impacts of development. New development can only be charged for the impacts it creates, not for correcting any existing deficiency. When construction and need for new roadways are triggered by development, the developer is required to construct the roadways and bikeway facilities.

- ø Parks, trails and user fees — Meant to directly assess users; this funding source has not been successful. Bicycle registration and use fees have, for the most part, not been successful because of enforcement difficulties.

Safe Routes to Schools — The once common sight of children walking or riding bicycles to school has all but vanished in many communities. The Federal Highway Administration offers these statistics: up to 25 percent of morning commutes consists of parents driving children to school. Fewer than 15 percent of all school trips are made by walking or bicycling, one-quarter are made on a school bus, and over half of all children arrive at school in private automobiles.

According to the California Dept. of Health Services, pedestrian/auto accidents are the second leading cause of fatal injuries among 5-12 year-olds; bicycle crashes are fifth. Children and seniors are at greatest risk of injury as pedestrians and cyclists. Traffic experts list two fundamental reasons: (1) unsafe traffic speeds and (2) inadequate or no sidewalks or bikeways. The purpose of the Federal Safe Routes to School Program (SRS) is to address these issues head on, with the support of the California Department of Health Services, CHP and the California Bicycle Coalition

The SRS program, administered by the CHP and Department of Transportation, grants the state the authority, “...to use federal transportation funds for the construction of bicycle and pedestrian safety and traffic calming projects.” With transportation funding available specifically for this purpose, many communities all across California are implementing SRS projects.

Both Canada and England have seen remarkable success in the implementation of SRS. The installation of bike lanes, raised pedestrian crossings, and traffic calming have cut traffic speeds considerably, making conditions much safer for pedestrians and cyclists. Bicycle use tripled in two years and bike parking capacity doubled. Reduced residential zone speeds (now 20 mph) resulting in a 70% reduction in child pedestrian injuries and a nearly 30% reduction in child

bicycling casualties.

FINDINGS

Finding 1: Bicyclists are required to obey all traffic laws. Every person riding a bike on a street or highway has all the rights and is subject to all the rules applicable to the driver of a motor vehicle. (Vehicle Code 21200)

Finding 2: Law enforcement agencies set higher priority on enforcement of motorized traffic. There are so many more cars than bicycles, and the consequences of a traffic accident while driving a car are likely to be significantly more serious than those involving a bicycle.

Finding 3: Testimony revealed substantial state funding cuts have forced the SLO Police Department to reduce traffic enforcement by 40% in recent years. The funding cuts have impacted the County Sheriff's Department as well. (The CHP is required to enforce traffic laws on unincorporated roads as well as state highways.)

Finding 4: Providing enough shoulder width for bike lanes on rural roads is not always possible. There is too little signage on roads without bikeways, warning both cyclists and motorists to use caution and share the road.

Finding 5: There was unanimous agreement among local cycling club members and cyclists interviewed that too many cyclists fail to follow basic Vehicle Code regulations. Cycling groups from the League of American Bicyclists to SLO Bike Club encourage tough enforcement of traffic laws for cycling violations.

Finding 6: Although there is real need for bike safety programs for all cyclists, there are a limited number of bicycle safety programs in SLO County.

Finding 7: There is an ongoing need for additional bikeways and maintenance of existing bikeways. Although there are a number of funding sources for bikeways and safe cycling projects, development of cycling and pedestrian friendly infrastructure is expensive. The competition for these funds is fierce.

RECOMMENDATIONS

Recommendation 1: Working with local cycling groups and the Bicycle Advisory Committee, local law enforcement agencies and San Luis Obispo County should generously support the countywide implementation of the “BikeEd” program or similar bicycle safety training program. Support may be monetary, venue provision, advertising, staff assistance, etc. or other in-kind services. (Findings 1, 5 & 6)

Recommendation 2: The County should continue to actively seek funding for bikeways and bike and pedestrian safety construction projects and programs, such as the “Safe Routes to Schools” program. (Findings 6 & 7)

Recommendation 3: Law enforcement agencies should implement target enforcement programs aimed at improving cyclist compliance with traffic regulations to insure public safety. (Findings 1, 2, 3 & 5)

Recommendation 4: Motorists and cyclists alike would travel safer if narrow, rural roads were marked with permanent signage warning both cyclists and motorists to use caution and share the road. (Finding 4)

REQUIRED RESPONSES

- **The San Luis Obispo County Public Works Department: Due 7/21/06 (Findings 4 & 7 and Recommendations 1, 2 & 4)**
- **The San Luis Obispo County Sheriff’s Department: Due 7/21/06 (Findings 1, 2 & 5 and Recommendations 1 & 3)**
- **The San Luis Obispo County Board of Supervisors: Due 8/23/06 (Findings 1, 2, 4, 5 & 7 and Recommendations 1 through 4)**
- **The San Luis Obispo City Police Department: Due 7/21/06 (Findings 1, 2, 3 & 5 and Recommendations 1 & 3)**
- **The San Luis Obispo City Council: Due 8/23/06 (Findings 1, 2, 3 & 5 and Recommendations 1 & 3)**

CONCLUSION

Bicycling accident statistics indicate that bicyclists are riding safer today than they were 15 years ago. There is still a need for cyclist safety training and enforcement of traffic laws as they apply to the bicycle rider. Educating the bicyclist to ride safely and share the road with motorists should start with youngsters. Teaching our children that bicycles are vehicles, to be operated accordingly, is the key to bicycle safety.

The Grand Jury believes school districts should teach safe cycling, like the nationally certified “BikeEd” safety course, through the use of local resources like the San Luis Obispo Bicycle Club. The approach need not use additional classroom or staff time. Bike safety courses can be taught by League of American Bicyclists certified trainers during established physical education times in three to four classes per school year

Furthermore, the Grand Jury encourages school districts to implement the local “Safe Routes to Schools” program in their respective communities. The daily ritual of parents delivering their children to school exposes children to the hazards of traffic, air pollution and a lack of physical activity. The SRS program includes the “Walk to School Day,” funding for crossing guards, reducing traffic congestion, learning traffic safety skills, separating drop-off areas to protect children who walk or bike, and other useful ideas. The California Department of Health Services and the California Safe Routes to School Clearing House are the program contacts.

Law enforcement agencies establish their enforcement priorities based on staffing levels. There is greater demand for enforcing traffic laws for motorists rather than for cyclists. Limited staffing is the biggest barrier to enforcement demands from both cyclists and motorists

As the number of automobiles and bicycles increases, it is necessary for motorists and cyclists to practice tolerance and patience toward each other. Traffic jams and fuel prices can act as a catalyst for a new wave of cycling. Using a combination of education, enforcement and engineering increases awareness and improves infrastructure, allowing everyone to share the road.

ATASCADERO HIGH SCHOOL: Racial Issues

Race is still a divisive issue in the United States today. People are not born prejudiced; they learn intolerance. Indeed, prejudice and bigotry, from racism to sexism to religious intolerance, is learned behavior. This behavior can be unlearned or, at the very least, discouraged. Our children will inherit the repulsive legacies of bigotry and intolerance unless parents and educators recognize and overcome the conditions that contribute to this behavior. Marian Wright Edelman, founder of the Children's Defense Fund, said:

“If you as parents cut corners, your children will too. If you lie, they will too. And if parents snicker at racial and gender jokes, another generation will pass on the poison adults still have not had the courage to snuff out.”

Just how well do our schools address the malignancy of bigotry and intolerance? Specifically, how well does Atascadero High School address these issues?

ORIGIN

After hearing about reports of racial incidents at Atascadero High School (AHS), the Grand Jury initiated an inquiry into the issues of racial, religious and gender discrimination along with sexual harassment at AHS. In particular, the inquiry focused on the alleged failure of AHS administration, and the Atascadero Unified School District (District) to respond to racial incidents in a timely and sensitive manner and discipline those responsible.

METHOD

The Grand Jury took the following steps:

1. Interviewed District administrators;
2. Interviewed AHS administrative and line staff personnel;
3. Interviewed parents of AHS students;
4. Reviewed various Atascadero Unified and Paso Robles Unified School District policies and procedures regarding discrimination and harassment; and

5. Reviewed California Department of Education codes and regulations pertinent to the issues.

BACKGROUND

Educators have long recognized the inseparable link between education and culture and society's basest forms of expression such as racism, sexism, and religious intolerance. Education and cultural awareness are tools to prevent prejudice, bigotry, and intolerance.

"Racism is man's gravest threat to man - the maximum of hatred for a minimum of reason." Abraham Joshua Heschel

Community and Cultural Identity — The City of Atascadero can be described as a bedroom community where many residents commute either north or south for employment. The approximate racial makeup of Atascadero is 82% White, 11% Hispanic, 2% African American, 3% two or more races and 2% Native American.

Some Grand Jury witnesses highlighted issues of racial, religious and sexual orientation intolerance and insensitivity in the school district. There seems to be an it-can't-happen-here attitude and approach to issues of racism and religious intolerance on campus. Sexism and sexual harassment have been recent issues in the public eye and are, therefore, better addressed.

Atascadero High School — With a student body population of approximately 1,600 students, Atascadero High School is the second largest of the three north county public high schools. The racial makeup of AHS's student body is approximately 83% White, 13% Hispanic, 2% African American, 1 % Asian, 0.6% Filipino and 0.4% Native American. AHS staff is 91% white and 4% Hispanic, with the remainder equally divided between African American, Pacific Islander, Asian, and Native American.

In 2004, a District and AHS survey indicated most parents and students felt that students were safe both enroute to, and at school. According to interviews with District and AHS staff, bullying and harassment are not considered significant problems on the AHS campus. However, other Grand Jury interviews did not validate this position. In addition, the editorial, "Campus

Needs More Security” in the November, 2005 *Hilltop News*, a student publication, stated that fights, vandalism, and harassment are problems at AHS. The editorial contended that the most obvious weakness in AHS security is the presence of only one campus supervisor, and, “...*it is simply impossible for one person to be in several places at once.*”

The Grand Jury believes statements provided by witnesses and the student editorial accurately reflect the state of campus security. In an effort to improve campus security, AHS installed a campus surveillance system.

Racial Incidents — According to school authorities, during the 2004-05 school year there were 10 to 20 incidents of racial and sexual harassment at the high school. Most of the incidents were racial in nature, reflecting youthful insensitivity. Only two were considered serious enough to suspend or expel the student perpetrators. These two incidents were not examples of youthful ignorance. The students involved in these incidents were reported to be children, “...*of strongly racist family upbringing.*”

In addition to the 10 to 20 incidents, Grand Jury interviews disclosed a variety of daily incidents that may or may not have been reported to, or observed by AHS staff. One AHS staff member stated harassed students typically endure the harassment until they have had enough, and only then report the incidents. As is common among high school youth, there is an unwritten code of silence not to go to authority figures when encountering uncomfortable issues. Some students felt as if nothing would be done even if they had reported incidents to school authorities. This perception of school inaction may be the result of legal requirements strictly protecting the confidentiality of individuals involved in the incidents.

In September 2004, a racial incident occurred on a district school bus. It took place at a bus stop, and involved several high school girls. There was some pushing and shoving, and racial epithets shouted at an African-American girl who was not caught up in the physical scuffle. The mother of the girl who yelled the racial epithet was present, and also involved as an aggressor, encouraging her daughter to further physical and verbal abuse.

The bus driver requested assistance from the Atascadero Police Department (APD). However, AHS authorities stated they learned of the incident only several days later, after parents of a student who witnessed the incident wrote a letter of concern to AHS. At the time of the Grand Jury interview with District administration, it was disclosed that the District had no record of the incident.

As a result of that incident, the District modified its reporting policy. The District and school sites are now working together in the area of inappropriate behavior of students while being transported to and from school activities.

In another incident, an AHS lunch table was defaced with several threatening racial epithets, upsetting many students. AHS administration felt the graffiti was inflammatory enough to classify the incident as a significant concern. APD was contacted, and photos were taken. According to some witnesses, to the dismay of much of the student body, the graffiti remained on the table for some time.

During that same time frame, an incident involving anti-gay graffiti occurred at the school. Grand Jury witnesses stated that AHS staff immediately addressed that incident. Via the school's public address system, the principal expressed disappointment in the student or group of students responsible for the graffiti. In contrast, the lunch table incident did not receive a public expression of disappointment. According to witnesses, many students and staff perceived that the racial incident was somehow less serious than the sexual harassment incident.

During the Grand Jury inquiry, witnesses testified that, on some occasions, school faculty had been present when students made insensitive racial remarks, and the teachers did not correct or reprimand the students who made the remarks. It was alleged these remarks might have been spoken in ignorance, and not meant to hurt or demean. These incidents highlight the need for sensitivity and diversity training for both faculty and students. In one case, incidents of this sort led concerned parents to remove their child from AHS and transfer the student to another high school.

Discipline — If a student has been identified as the perpetrator of a serious incident, that student may be suspended, or expelled from school. Suspension is a temporary removal from the school for up to five days. Expulsion is a significantly more serious discipline, and may result in a student missing a school year. Suspended or expelled students may be required to seek counseling before being allowed to return to campus. AHS students expelled for hate crimes may be required to seek counseling on their own before being readmitted. Witness testimony indicates that AHS and the District do not provide counseling for suspended or expelled students.

Reporting Incidents — Racial, religious and sexual harassment incidents are not necessarily reported beyond the school campus. District office policy only requires the reporting of incidents when the perpetrator is to be suspended or expelled. Vandalism and destructive incidents resulting in appreciable fiscal impact are reported to the District office as well.

The District reported only one racial and one sexual harassment incident at AHS in the 2004-05 school year. Even though AHS experienced 10-20 incidents, only two were considered reportable under District policy. AHS staff stated that harassment incidents, which are not reported to the District, are logged at the school in staff logs and a student information system. Witnesses stated logs of the incidents categorized as insignificant are destroyed at the end of the school year.

Protective Policies — All school districts are required by *California Education Code 35294.1 et seq.* to prepare and implement “Safe School Plans.” From the Grand Jury perspective, the AHS safety plan meets *Education Code* requirements. A “Safe School Plan” sets forth comprehensive policies and procedures for providing learning environments free from physical and psychological harm. The policies include subject areas in violence prevention, crisis preparedness, and school environment management. This document sets forth policies on bullying and hate-motivated behavior management. “Safe School Plans” are updated on an annual basis.

The AHS Sexual Harassment Policy is a thoroughly researched and detailed document. Examples of sexual harassment and prohibited conduct are clear and to the point. The process for investigation of potential incidents and the enforcement of the policy is equally clear.

On the other hand, the policy regarding racial and religious harassment and discrimination is lumped together with nine other protected classes in a thirteen-sentence policy entitled, “Non-Discrimination/Harassment.” This policy is generic and extremely brief, providing none of the level of detail described in the “Sexual Harassment Policy.”

Education as a Defense — Racism, bigotry, and intolerance are examples of learned behavior. The education community is aware that education is the strongest deterrent to racism, bigotry, and intolerance. Education, coupled with role modeling and recognition of the issues, is key.

Witnesses informed the Grand Jury that the District neither offers nor requires an ongoing program of diversity or tolerance training for its staff. Tolerance issues are discussed in staff meetings and whenever necessary to address specific incidents. According to testimony, AHS staff is provided with a single diversity training session upon beginning employment with the District. There is a mandatory annual refresher course on sexual harassment, which District teachers, administrators, and counselors must attend. Tolerance training as a component of health classes is offered to District students.

There are no parent/teacher/student groups formed to engage specifically in the issues of racial and religious intolerance, bigotry and harassment. An outside example of this type of group is Parents, Family and Friends of Lesbians and Gays (PFLAG). PFLAG’s mission is to promote the health and well being of gay, lesbian, bisexual, and transgender students, their families and friends through support, education, and advocacy.

AHS’s ‘Greyhound Hot Topics’ program meets monthly to discuss issues that parents, school faculty, and students feel are current and pressing. AHS administration also identifies the parent Teacher Student Association (PTSA), local Booster groups, school counselors, school principals, and the Student Advisory Council as platforms for bringing intolerance issues to the surface. By

their nature, these approaches to bringing intolerance issues to light tend to be reactive rather than proactive.

Paso Robles High School (PRHS) is recognized in the local education community as a school campus of diversity, tolerance and strong pride in recognizing students' differences. PRHS offers an annual program for its students called "Challenge Day." The program's facilitators gather student leaders from all areas of school culture groups. Young leaders from diverse groups like, "...*Goths, school band, Hispanic kids, sports kids, gangster-wannabes, ...*" are brought together with parents to discuss their differences and similarities. After their meetings, the young leaders return to their respective groups with fresh perceptions of others and the ability to impart what they have learned.

Using PRHS's success as a model, AHS will be implementing the "Challenge Day" program in school year 2006-07. AHS will run its program concurrently with PRHS, following the same format. Both high schools will be working closely together to ensure a successful event.

FINDINGS

Finding 1: AHS reports a racial, sexual, or religious harassment incident to the District only when it is serious enough for the perpetrator to be suspended or expelled. Vandalism and destructive incidents resulting in appreciable financial impact are also reported to the District.

Finding 2: Incidents not reported to the District are simply logged at the high school. Not all harassment incidents are reported to the AHS Principal. Nearly all of the logged entries are discarded at the end of the school year.

Finding 3: In 2004-05, AHS estimated there were 10 to 20 incidents of racial or sexual harassment. Only two resulted in suspension or expulsion. Most of the incidents were racial in nature.

Finding 4: Not all incidents of racial, sexual, and religious harassment are reported to school or law enforcement authorities.

Finding 5: District administration has a record of only one racial harassment incident at AHS in school year 2004-05.

Finding 6: AHS has no formal counseling program for those students who are suspended or expelled for committing racial, sexual or religious harassment offenses. Students must seek counseling outside the school system.

Finding 7: The AHS safety plan contains a well prepared, lengthy, and complete “Sexual Harassment Policy.”

Finding 8: The AHS safety plan contains thirteen sentences of generic language prohibiting discrimination, “... *with respect to age, ethnic groups, religion, gender, sexual orientation, color, race, national origin, ancestry, and physical or mental disability.*”

Finding 9: Tolerance and diversity issues are discussed in staff meetings and whenever necessary to address specific incidents. Sexual Harassment training is the only related training done on an annual basis. Tolerance training is offered to District students as a component of health classes.

Finding 10: AHS does not have any parent/teacher/student support-groups to specifically address issues of racial and religious harassment.

Finding 11: The perception is that AHS administration places a greater degree of importance on incidents of sexual harassment over those of racial harassment.

Finding 12: Fights, vandalism and harassment continue to be problems at AHS. AHS’s security coverage has been identified as a weak link in campus safety.

RECOMMENDATIONS

Recommendation 1: The Grand Jury recommends the District and AHS develop and implement two separate policies, each addressing racial harassment and religious harassment. Each policy should be as extensive in scope, language and definition as the current AHS Sexual Harassment Policy. If implementation of such policies requires approval from specific State agencies, then the District should pursue immediate approval to prevent any delay in policy implementation. (Findings: 7, 8, and 11)

Recommendation 2: As an integral part of racial and religious harassment education and prevention, the District and AHS should pursue the formation of a volunteer advisory committee made up of concerned parents, teachers, and students. The committee would focus on: (1) racial and religious harassment and, (2) education on diversity and tolerance. The District should seek the input of these advisory committees in the development of policy, staff and student training and curricula. (Finding 10)

Recommendation 3: AHS and the District should immediately modify the current procedures regarding the reporting of racial, sexual, and religious harassment incidents. The Grand Jury believes all harassment incidents involving race, religion, and sexual orientation are significant and may be harbingers of more serious trouble. For that reason, the Grand Jury believes all such harassment issues must be reported to the District office whether the offender(s) is known or not.

By eliminating the filtering of crucial information at the school level, the District will: (1) be aware of the scope and frequency of such incidents, (2) be able to develop and apply necessary disciplinary procedures, (3) be able to stay current with related events, both in the community and the school district, and (4) be prepared to develop related policies and procedures which directly address the issues. (Findings 1, 2, 3, 4, and 5)

Recommendation 4: Beginning immediately, the District should develop and implement a comprehensive tolerance training program for all District staff. This mandatory comprehensive training course should be offered at least once every school year to all District employees. (Findings 9 and 11)

Recommendation 5: The District should immediately develop and begin comprehensive tolerance, sensitivity, and diversity training programs for all District K-12 students. The District educational curricula should address issues of cultural and religious significance as a routine classroom component. For example, “Black History Month” provides an opportunity to highlight African American contributions and experiences. (Finding 9)

Recommendation 6: AHS should immediately begin to identify racial and religious harassment as destructive forces in the same manner as sexual harassment. (Findings 9 and 11)

Recommendation 7: The District should begin a program of sensitivity counseling for students who are suspended or expelled for committing any harassment. (Finding 6)

Recommendation 8: The District should re-evaluate the need for additional security, with a focus on fights, bullying, and harassment at AHS and other campuses. (Finding 12)

REQUIRED RESPONSES

- ø **The Atascadero High School: Due 07/27/06 (All Findings and Recommendations 1, 2, 3 & 6)**
- ø **The Atascadero Unified School District: Due 08/25/06 (All Findings and Recommendations 1, 2, 3, 5, 7 & 8)**

CONCLUSION

The Grand Jury feels strongly that racial and religious harassment in the schools must not be tolerated at any level. Indeed, harassment in any form is unacceptable. We feel the Atascadero Unified School District must stay alert for signs of hidden and open racism and religious intolerance in the schools, and swiftly move to battle intolerance in any apparent form.

What can parents and the schools do? The California Attorney General’s office says parents and schools must forcefully speak out against hate and intolerance. District staff and educators must

clearly speak out in favor of diversity and tolerance, support victims of harassment and bullying, and form a network of students, parents and faculty to deal with harassment and bullying. The goal is to celebrate diversity and recognize the power of variety in thought and culture.

We must teach our children the immeasurable value in cultural and ethnic diversity that should be an integral part of our American history.

“Every man is guilty of all the good he did not do.” Voltaire

COMMUNITY SCHOOLS

Each county in California operates a Court and Community Schools program. The San Luis Obispo County Office of Education (COE) operates one Court School and five Community Schools. The Court School provides classes for incarcerated youth at the locked juvenile detention center. The Community Schools are for students who have either been expelled or, for various other reasons, removed from their local school and school district. Most have been placed in Community Schools for truancy. Many of the students at Community Schools are also on probation. The Probation Department stations probation officers at each Community School for the purposes of enforcing truancy laws and providing case management. Community School students are considered to be a high-risk group.

Community and Continuation Schools Differences:

The County Office of Education's *community* schools are not to be confused with *continuation* high schools operated by the school districts. Continuation high schools are alternative educational opportunities for students who may have dropped out or been unsuccessful for a variety of reasons in their local public schools and need to make up academic credits towards receiving a high school diploma. Local school districts have a half-day continuation program for students in grades nine through twelve. Students need to be at least 16 years old in order to attend. Attendance at continuation school is voluntary. Local school authorities then must approve the request before students are allowed to attend. Once a student makes up deficient credits, he or she may request to return to the regular high school in order to graduate with fellow students, or opt to remain and graduate from the continuation high school. *Continuation* schools are run by local school districts, whereas *community* schools are operated by the County Office of Education. Enrollment at both is voluntary, but *community* schools accepts students grades 7 through 12 who have been expelled, are severely credit deficient, or who have behavior problems and would not qualify for *continuation* schools.

ORIGIN

The Grand Jury chose to examine the Court and Community Schools because they had not been reviewed recently. We were concerned there was a need to shed light on a little known

education function in the county. Additionally we wanted to see if a regular high school program emphasizing college preparation is realistic for high-risk students – would this program *leave some students behind?*

METHOD

The Grand Jury interviewed COE officials, teachers, administrators and students at Community Schools, Probation officers, and visited Community Schools and the Court School. We also held a series of roundtable discussions with representatives from COE, County Probation Department, the Regional Occupation Program, County General Services, the Private Industry Council, and Assemblyman Blakeslee's office. Telephone interviews were also conducted with the California Department of Education.

The grand jury may investigate and report upon the needs of all joint powers agencies in the county, including the abolition or creation of agencies and the equipment for, or the method or system of performing the duties of, the several agencies. It shall cause a copy of any such report to be transmitted to the governing body of any affected agency. As used in this section, "joint powers agency" means an agency described in Section 6506 of the Government Code whose jurisdiction encompasses all or part of a county.

NARRATIVE

The emphasis of this report is on the need to prepare high-risk youth to lead useful and productive lives, and to stay out of trouble after leaving school. The best way to do that is to prepare them to enter the workforce. The Grand Jury agrees that vocational education is a means to accomplish this and is a viable alternative to college preparation for some students.

The What and Why of Community Schools:

Students are referred to Community Schools from their district schools due to a range of serious circumstances, including repeated behavior problems, chronic truancy, expulsion, and/or other indicators of a failure to thrive within the traditional educational system. In short, Court and Community Schools serve as a “last resort” for our county’s most troubled teens. Educators agree that many youth who end up in Court and Community Schools describe feelings of

personal failure, a disconnect between learning and real life, and an overall lack of a sense of future direction that have confounded their ability to achieve in school. Educators also report that many of the youth come from dysfunctional families.

Community Schools provide standards-based instruction for students seventh through twelfth grade. The standards taught are the same classes as in district schools and conform to all state requirements. Some students eventually return to their district school while others may stay at Community School until they either reach age eighteen or complete high school. Community Schools can confer high school diplomas on students who complete the state-mandated course work and pass the exit examination. They can also assign a certificate of completion to students who do not pass the exit examination but do complete the required courses and hours of instruction.

Because of the troubled nature of some of these students, and their history of failure in class work, a significant number do not receive diplomas. For this group, opportunities after leaving school are severely limited. Many have already been exposed to the gang and drug worlds and may find this an easy path to get money and achieve recognition. These students are at risk of a lifetime spent going in and out a revolving door in the justice system.

Law enforcement, education, and correctional experts all agree that the best way to keep juvenile delinquents from becoming adult criminals is to provide them with the opportunity to become productive members of the community. To do this, they need both a positive work ethic and job skills.

Job Training Courses:

The Regional Occupation Program (ROP) is a state-funded program, which provides students who remain in the traditional school system with vocational education and job training. The currently correct term for vocational training is “Career Technical Education” (CTE). (We will use both the more traditional *vocational education/training* terminology and CTE throughout this report.) Through the ROP classes students can learn specific trade and job skills such as culinary

arts, mechanics, woodworking and other construction skills. However, this program is not available for Community School students.

The ROP is governed by a board comprised of representatives of each of the seven county school districts in the county who determine the distribution of ROP resources throughout the county. Because these resources are limited, it is not possible to meet all the needs of the regular school system. Thus, the possibility of ROP addressing the needs of the Community Schools is remote.

Court and Community School students stand to benefit immensely from a positive career education experience. However, existing opportunities available through CTE systems are not appropriate for most Court or Community School students for three primary reasons: First, because students in this program have been expelled from school, they are, by law, not permitted on campus at schools that offer ROP classes. Second, CTE programs often include academic prerequisites that many Court and Community Schools students with histories of truancy and academic failure do not have. Finally, and perhaps most importantly, Court and Community School students have typically reached an emotional “rock bottom” by the time they reach this alternative school program. Most are not immediately receptive or prepared to succeed in a traditional CTE context.

If Community Schools are to offer any type of job or work training, the program needs to be tailored specifically to the needs and abilities of this population and funds must come from a separate, dedicated source – i.e., the Private Industry Council.

Private Industry Council Funds:

The Private Industry Council (PIC) is a not-for-profit corporation, which is governed by a five-member board of directors. PIC receives and spends federal funds designated by the Workforce Investment Act for development of the workforce. These funds are distributed by the US Department of Labor and are funneled down to the county level through the state. The county's Workforce Investment Board, appointed by the Board of Supervisors and composed of members drawn at least 51% from private industry, has oversight responsibility for PIC.

PIC has provided the COE Community Schools with funding for a pilot project to develop a basic course designed to prepare students to enter the workforce. This project is currently conducted only at the San Luis Obispo Community School site. There is one full-time instructor and one full time job placement specialist who teach and supervise the class.

The program is known as WORK (World of Real Knowledge), and was launched in September 2005 with partial start-up support through Workforce Investment Act funds. This “one-room school within a school” serves up to twenty 11th and 12th grade Community School students who volunteer to participate in the program. The focus of this course of study is on exposing students to the world of work through multiple contexts, both in the classroom and the real world. The program is built around the following strategies:

1. Using **core curriculum to examine work-related topics** (e.g. budgeting in math class, cover letters in English/language arts class, the history of labor/management relations in social studies class),
2. Inviting **weekly speakers from a variety of professions** to visit the class and share with students what they do and the paths they took to establish their careers,
3. Establishing a **job shadowing** experience for all student participants who successfully complete the first semester of the program,
4. Arranging **co-enrollment in courses at Cuesta College** for select students,
5. Enlisting a **campus-based job developer** for liaison between students and prospective employers, and
6. Developing **collaborative partnerships with employer groups** such as trade unions, industry associations, and business groups.

The WORK program does not actually teach specific job or work skills. Rather, it is designed to teach the fundamentals of what it means to work. It covers topics such as the need to dress appropriately, show up for work on time, get along with co-workers, and have a positive attitude, cleanliness and personal hygiene. These are necessary steps in preparing students for the work

world, and in many cases is their first exposure to these concepts as important elements of everyday life.

Two issues must now be dealt with to secure the future of the WORK program: how to continue the current WORK program and how to provide these students with the next level of skills required to enter the workforce.

Cost of the Program:

Funding for each twenty-student group is estimated at \$50,000 (or \$2,500 per student). If the program is to be expanded to both the north and south county campuses, the total cost would be approximately \$150,000.

According to those professionals interviewed, all agreed this is a wise investment, one that promises payoffs on many levels for both the county and the youth who are able to make positive turnarounds at this critical stage in their life. The potential alternative cost to society, which could be incurred if these students are not able to find gainful employment as they age is much greater. We feel this may be a case of, “pay now or pay more later.”

Possible PIC Funding Restrictions:

PIC is restricted in its ability to supply funds for the WORK program due to federal regulations and the availability of funds. Federal regulations require funds be used only to benefit families with a maximum of \$7,200 earned annual income. This can represent a problem for some students enrolled in the program. However, there are other qualifying categories into which many students may fall and this may mitigate this restriction. It is not clear what effect this restriction will have on funding for the coming year.

Additional funding, and creative substitute forms of assistance such as described in the next section, must be identified and developed.

A Role for the County:

The County General Services Department employs people with a range of skills in many different occupational fields. This department is charged with maintaining virtually all county property. Jobs in the department range from building and grounds maintenance to many of the construction trades, park rangers, vehicle maintenance, and a host of administrative functions. Most jobs are full time, while some are part time or summer positions.

During our roundtable discussions, it was determined that it may be possible to either employ some students from the WORK program in this department or to allow them to at least observe work activities. This would provide some of the exposure to advanced job skills that are needed to round out the WORK program as well as add additional value to the benefits provided to the county by the General Services Department. There is, of course, a need to provide adequate supervision and oversight for students allowed to take part in the department's work activities. The Probation Department stated they would support this concept on an experimental basis and would be willing to cooperate in this endeavor by screening prospective participants and providing required supervision. If this concept can be implemented it would benefit both the students and the county.

The Future and Funding:

Because the WORK program has shown initial success, we feel that it should be expanded. Toward this end, additional funding must be sought. Funding is always a problem - and there is no easy answer. San Luis Obispo County has been first in a number of developments, which have later been adopted at the state level. There is reason to believe the WORK program could be a "first" which would have application statewide. It is a "pilot project" which addresses a problem common to all counties in the state.

Private industry also stands to benefit from a successful and expanded WORK program. Although PIC may have limited funds, PIC, as an organization, is ideally suited to approach private industry sources to solicit additional funding and supplemental support for the program, and to administer any funds generated.

CONCLUSION

The WORK program serves a specific need in the county and, for the dollars spent, has the potential of a very high return on investment – especially in the long run. The County Office of Education is to be highly commended for their efforts in creating this program. The Private Industry Council, the Probation Department, and the General Services Department should be recognized for their willingness to explore innovative ideas about how to make the program an even greater success.

The future of the WORK program depends on funding. Funding depends on the ability to create and pursue new and creative approaches to obtaining money for the program. It is time to think outside the box!

FINDINGS

Finding 1: Students in Community Schools are high-risk youth and are less likely to be college bound.

Finding 2: State academic requirements are the same for Community School students as for regular school district students.

Finding 3: There is a strong need, and a severe lack of funding, for vocational training in Community Schools.

Finding 4: Past communication and collaboration between various agencies in dealing with the Community School population and the need for vocational training was lacking. The roundtable approach to this inquiry has opened new lines of communication and cooperation between various agencies, which can benefit the students in the Community School program.

Finding 5: There is a need for adult mentors to help in introducing WORK program students to job experiences.

Finding 6: The County General Services Department has agreed to explore the possibility of cooperation in the WORK program.

RECOMMENDATIONS

Recommendation 1: The WORK program should be continued and expanded to the next level (specific job skill exposure and training). (Findings 3 and 5)

Recommendation 2: The WORK program should be expanded to the north and south county Community School campuses when funds become available. (Finding 3)

Recommendation 3: COE and Probation should communicate frequently and keep each other informed of problems, progress, and needs of the Community Schools WORK program. Roundtable discussions involving the needs and developments in the Community Schools vocational training efforts should continue on a regular basis. (Finding 4)

Recommendation 4: COE should create a team with PIC to approach private industry to generate additional funding for continuation and expansion of the WORK program. Funding and alternative methods of support for the program can include job shadowing, OJT (On the Job Training), and dedicated financial sponsorship for groups of students. (Finding 4)

Recommendation 5: Probation Department should remain involved in efforts to continue and expand the WORK program and should cooperate with COE where and when possible. (Finding 4)

Recommendation 6: COE, Probation, and ROP professionals should work together to develop an approach to the state legislature to propose a pilot program in San Luis Obispo County. The pilot program should be designed to increase the availability of Career Technical Education for Community School students. (Findings 3 & 4)

Recommendation 7: The Probation Department should work with the General Services Department to identify and match students with job opportunities in the General Services Department and provide assistance in placing those students. (Finding 5 & 6)

Recommendation 8: This final recommendation requires some imaginative and very creative thinking on the part of COE, but no additional funding. COE should utilize their own existing facilities to create “job training” at Community School sites. (Finding 3)

REQUIRED RESPONSES

- **The San Luis Obispo County Office of Education: Due 08/02/06 (Findings 1 through 5 and Recommendations 1, 2 3, 4, 6 & 8)**
- **The San Luis Obispo County Board of Education: Due 09/06/06 (Findings 1 through 5 and Recommendations 1, 2 3, 4, 6 & 8)**
- **The San Luis Obispo County Regional Occupation Program: Due 08/02/06 (Findings 1 through 4 and Recommendations 6)**
- **The San Luis Obispo County Probation Department: Due 08/02/06 (Findings 1 through 5 and Recommendations 3, 5, 6 & 7)**
- **The San Luis Obispo County Board of Supervisors: Due 09/06/06 (Findings 1 through 5 and Recommendations 3, 5, 6, & 7)**

OAK TREE PRESERVATION IN SAN LUIS OBISPO COUNTY

As one North County rancher from a pioneer family noted, few agricultural issues are as emotionally charged as oak tree preservation. Residents choose the central coast because of the relatively clean air and water, ocean, mountains, rolling plains and woodlands.



Native trees help provide clean air, maintain the watershed, sustain wildlife habitat, promote bio-diversity and retain the pristine countryside. In many ways, the California Oaks define our environment and remind us why we live in San Luis Obispo County.

Oak woodland: Is it worth saving?

ORIGIN

The Grand Jury received a complaint from a county resident regarding the removal of a mature oak tree as a result of new development, and the lack of written protection for native trees.

METHOD

The Grand Jury:

- Interviewed the complainant;
- Interviewed staff of the SLO County Public Works Department;
- Interviewed staff of SLO County Planning and Building Department;
- Interviewed staff of the SLO County Code Enforcement;
- Interviewed community development staff of the City of El Paso de Robles;
- Interviewed a representative of Greenspace, a local environmental advocacy group;
- Interviewed a representative of the San Luis Obispo County Oak Protection Committee, a grass-roots advocacy group;
- Interviewed members of the ranching and agricultural community;
- Interviewed the University of California, Area Natural Resources Specialist;

- Reviewed the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA);
- Reviewed county environmental violations and code enforcement procedures; and
- Reviewed tree ordinances and/or regulations for the cities of El Paso de Robles, Arroyo Grande, San Luis Obispo, Morro Bay, Grover Beach, and Pismo Beach, as well as San Luis Obispo County Title 22, Chapter 22.56-Tree Preservation.

THE COMPLAINT

On August 20, 2005, a mature, and according to lore, historic Valley Oak was removed in favor of road construction in a new development. The tree was reported to be the site of community picnics and may have been used, at one time, as a hanging tree for rustlers. The location was south of the Boneso/Filiponi subdivision, near Las Tablas Rd. and Highway 101, in Templeton.



The road that replaced the historic oak.

The Templeton Area Advisory Group (TAAG) usually reviews new projects within their area presented by a representative of the SLO County Planning Department. In the review process, however, TAAG had apparently overlooked the removal of two mature oak trees. Residents did not think the trees would need to be removed, and many were surprised when it happened.

A permit for removal of the trees was approved according to SLO County Planning and Building Department; however, residents questioned the necessity of removal. The response to the complainant from the Senior Planner and liaison to TAAG was, “I reviewed the conditions of approval and the tree was authorized for removal due to the construction of Bennett Way.”

Another planner was contacted by the complainant and asked if there was any discussion about trying to save the tree. The response was that the planning department had tried to save the large oak along Bennett Way. It was suggested the complainant “... talk with Richard Marshall of the

Public Works Dept. who is familiar with the tract and can explain the road alignments in that area.”

In a Grand Jury interview with Public Works staff, it was noted that per the County’s Circulation Element (traffic flow), there was a decision early on to connect Bennett Way, providing for traffic circulation in the vicinity of the new development. Once this decision was made, road engineering came into play, with safety being the main concern. Factors such as elevation, slope and degree of curve were evaluated. Upon addressing the engineering concerns, it was determined that the tree was in the way and that if it were to remain, it would probably not survive due to disturbance resulting from the road construction.



Unimproved end of Bennett Way: will this be removed?

Removal was authorized and permitted, but could the tree have been saved?

County Oak Tree Policies:

Oak tree policies in unincorporated areas vary and depend on location, land use and zoning. If the trees are within the coastal zone, Village or Urban Reserve Line, or within the purview of the California Environmental Quality Act, the planning department may impose conditions and restrictions on landowners and new construction. The urban reserve line (URL) is a boundary separating urban/suburban land uses and rural land uses. The village reserve line (VRL) distinguishes developed areas from the surrounding rural countryside. If a tree exists on a lot permitted for new construction, the planning department can only recommend protective measures. If the oaks reside on an antiquated subdivision (parcels of land that were established, mapped, or recorded in the 1800’s) or on rural lands outside the Urban and Village Reserve Lines, such as Agricultural or Rural Lands, no restrictions are applicable unless a discretionary permit is required.

The vast majority of undeveloped land in SLO County is either antiquated subdivisions or zoned Agricultural or Rural Lands. Even under circumstances where the planning department may

impose conditions or restrictions, a removal may be permitted with mitigation of 4:1 (four saplings planted for each mature oak removed).

Under *Title 22-Land Use Ordinance, Chapter 22.56-Tree Preservation*, permits are required, but only within urban or village reserve lines. This historic oak was within the Templeton Urban Reserve Line and removal permitted with 4:1- mitigation. Once again, however, could the tree have been saved?

To Protect or Not to Protect?

A Native Oak Tree Protection Survey was prepared in 2003, and is currently in draft form. According to a random survey, 76% of the San Luis Obispo County registered voters, who responded, support a native oak protection ordinance and favor protection and preservation of native trees.

Protection of the natural and cultural landscape is not new to the county. In the 1990's, the Board of Supervisors formed a task force to develop an ordinance. The attempt to develop an ordinance was abandoned and the Native Tree Resolution was adopted in 1997, followed by the formation of the Native Tree Committee in



Oaks on the proposed Chandler Ranch development in Paso Robles.

1998. Several years later, the committee's mission was expanded to include oak woodland management. All of these efforts are commendable and have one element in common. They are voluntary and the guidelines are merely a suggestion.

The issue of voluntary protection is controversial. Property rights and the ability of landowners to manage their land is essential. Most farmers and ranchers are conscientious stewards of their holdings and the land is their livelihood. It is also true the most blatant destruction of oak woodlands has come as the result of new vineyards and population growth, as was seen in Santa Barbara County. These acts prompted the adoption of a stringent ordinance to deter future violations in that county. There appear to be philosophical differences within the agricultural

community as to the value in protecting native trees. Many ranchers take a holistic approach to managing their oak woodlands. Besides cattle grazing, the land may be used for hunting, fishing, or camping. Some of these practices are controversial, but the sense is that their intent is honorable and that there is a tie to the land. One does not perceive the same philosophical approach on the part of some vineyard owners and developers.

Testimony before the Grand Jury noted the concern that some developers may circumvent environmental statutes (NEPA, CEQA) through agricultural conversion. For example, a conversion may involve clearing ranch land to plant row crops, only to construct homes within a few years. Grand jury testimony indicated that many citizens view this practice as unethical, although not illegal. Clearing land in the name of agriculture only to develop tract homes on a treeless landscape is not uncommon in California.

Are Ordinances Necessary?

The Grand Jury reviewed tree ordinances, resolutions and regulations for several incorporated municipalities in the county. Details, and the applications of sanctions and science vary from city to city. It is interesting that the most complete and restrictive oak tree preservation ordinance happens to be in the City of El Paso de Robles. This city is also the fastest growing city in the county and considered quite developer friendly. The Community Development Director was asked how the City responds to developers that request removal of oaks for construction. He stated simply, “ We tell them to build around them.” Local contractors are accustomed to the oak protection ordinance and readily accept its requirements as a cost of doing business. This may not be accurate in all cases, but the attitude is essential and the ordinance supports it.



Leave the tree; move the road.



Build a park; save a tree.

Two primary alternatives to ordinances are education and resource management planning. It has been suggested that instead of tallying the number of trees lost, we should begin a program of acres gained. With a management plan, development and oak woodlands would be forced to co-exist with the opportunity for expansion

through “mitigation” acres; i.e., placing woodland acres aside as a condition of development.

Education is seen as a way to convince landowners, agriculturalists and developers that it is in everyone’s long-term best interests to preserve and protect their oak trees.

Voluntary protection, of course, is the ideal and in rangeland management it may be possible due to most ranchers respect for their land. One may not be as optimistic about other forms of agriculture such as vineyard management. The argument against an ordinance is based on the difficulty of passage with the current political climate and power base in the county, polarization of the community, and the fact that there would not be enough code enforcement officers to insure its compliance if passed. True preservation and protection in unincorporated areas, including agricultural land, without an ordinance is improbable.

The San Luis Obispo County Oak Protection Committee, a grass-roots advocacy group, is in the process of developing an ordinance concerning oak tree protection and regeneration, in the unincorporated areas. It is currently in draft form, and attempts to bridge the gap between voluntary and regulated preservation. The committee is addressing stakeholder concerns in order to reach consensus.

FINDINGS

Finding 1: Prior to statehood, California contained approximately 18 million acres of oak and hardwood woodlands. Today we have about 9.5 million acres in oak woodlands and about 45% of those are so heavily disturbed that they are not functioning well in an ecological sense.

Finding 2: In the first 100 years after California became a state, developers and ranchers removed 70% of the oaks in the Salinas Valley. Currently, it is estimated that 14,000 acres of oak woodland (60,000 acres of forestland) are eliminated each year in California. Oaks still cover 36% of San Luis Obispo County.

Finding 3: The Native Oak Tree Protection Survey indicated that 76% of the respondents supported the adoption of a native oak protection ordinance.

Finding 4: Penalties have not deterred illegal destruction of oaks or oak habitat.

Finding 5: Code Enforcement reports there is insufficient staff to investigate the amount and degree of environmental crime.

Finding 6: All county staff interviewed favored increased protection of native trees.

Finding 7: Oak trees in California are under siege from development, disease, and demand for firewood.

RECOMMENDATIONS

Recommendation 1: Protection and preservation of oaks should be mandated by ordinance in any new construction in all unincorporated areas including antiquated subdivisions and single-family homes. (Findings 1, 2, 3, 6 & 7)

Recommendation 2: Agricultural lands should not be exempt from the protection and preservation of oaks and protection should be mandated by ordinance. Agricultural lands whose primary activity is cattle grazing should be exempt with an approved management plan. (Findings 1, 2, 3, 6 & 7)

Recommendation 3: Proposed ordinances should be reviewed openly with consensus of stakeholders as the primary goal. (Finding 3)

Recommendation 4: Sanctions for unnecessary or un-permitted destruction of oaks or oak habitat should be severe enough to deter criminal acts. (Finding 4)

Recommendation 5: The number of Code Enforcement investigators should be increased. (Finding 5)

CONCLUSION

It is difficult to imagine the Salinas Valley, when the first Spanish expeditions traversed it 230 years ago, encountering a landscape, green year round, covered with giant rye grass and majestic Valley Oaks. Today, the hand of man is apparent.

Being relatively rural, oaks still cover much of San Luis Obispo County. They may not be endangered, but they are threatened and worthy of vigilance. Within their authority, county departments take crimes against the environment seriously. In their ***Information on: Environmental Violations*** pamphlet, the SLO County Department of Planning and Building states that once damaged or removed, sensitive resources rarely recover. They cite the example of a mature oak tree, which is cut down, may be replaced with a sapling, but it will take generations to replace the tree that was once there. All county staff interviewed felt protection and preservation of oaks was important, and more could be done.

It is clear that the citizens of San Luis Obispo County recognize the importance of retaining the beauty and character of our landscape and favor its protection and preservation. If the question, “Should the historic oak have been saved?” had been posed to the citizenry, we believe the answer would be yes.

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A Planner's Guide for Oak Woodlands, University of California, Division of Agriculture and Natural Resources, Publication 3491, 1993, 2005.

A Guide to the CEQA Review Process, San Luis Obispo County, Environmental and Resource Management Division, Department of Planning and Building, San Luis Obispo County.

City of El Paso de Robles, Ordinance No. 835 N.S., Chapter 10.01-Oak Tree Preservation.

Environmental Violations, San Luis Obispo County Department of Planning and Building, County Government Center, San Luis Obispo, CA 93408

Guidelines for Managing California's Hardwood Rangelands, University of California, Division of Agriculture and Natural Resources, Publication 3368, 1996.

National Tree Trust, California ReLeaf, California Trees, Spring 2004, Vol. 14, No. 4.

Native Oak Tree Protection Survey, by Daniel Levi, Psychology Department, Cal Poly, Version 4.

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San Luis Obispo County Code-Title 22, Land Use Ordinance, Chapter 22.56-Tree Preservation.

Wayburn, Laurie A., Emerging Tools and Institutions to Conserve Oak Woodlands: Integrating Public Trust and Private Benefits, or Can We Ever Get Paid for Doing the Right Thing, USDA Forest Service Gen. Tech. Rep.PSW-GTR-184. 2002.

REQUIRED RESPONSES

- ø **The San Luis Obispo County Department of Planning and Building: Due 08/03/06
(Findings 1 through 7 and Recommendations 1 through 5)**

- ø **The San Luis Obispo County Board of Supervisors: Due 09/05/06 (Findings 1 through 7
and Recommendations 1 through 5)**

AGING OUT: The Future of Foster Children

INTRODUCTION

Many teenage former foster children now live on the streets. Most do not have the skills necessary to make the transition to a productive, independent adulthood. During their time in foster care, some teens have moved as many as nine times or more from one placement to another, from one school to another, from one social worker to another, preventing them from connecting with caring adults or receiving either a high school diploma or a GED, according to professionals who work with these youth. In San Luis Obispo County approximately twenty-five 18 year olds leave the foster care system each year. (Appendix C, #2)

Is this county providing the needed help and support former foster youth must have to become self-sufficient and responsible citizens, wage earners, and productive members of society? Does San Luis Obispo County have the resources to meet this challenge?

ORIGIN

As a result of a tour of the El Paso de Robles Youth Correctional Facility and our visits to Juvenile Hall and the community schools, the Grand Jury met young people, many of whom we learned had been in foster care for most of their lives. These youth did not have the ability to make it on their own, and many had become involved in substance abuse and other criminal behavior. Some youth considered themselves lucky just to have “three meals and a cot.” This prompted our inquiry into what resources are presently available in this county to help young people who are aging out of foster care.

METHOD

The following agencies were interviewed by the 2005-2006 San Luis Obispo Grand Jury:

- County Department of Social Services, Independent Living Program (ILP)
- Family Care Network (FCN), Transitional Housing Placement Program (THPP)
- Transitions Mental Health Association
- Cuesta College Independent Living Program (ILP)

- County Mental Health Youth Services
- County Probation Department
- Court Appointed Special Advocates (CASA), Voices for Children Program
- San Luis Obispo County Foster Parent Association
- County Office of Education, Alternative School Program
- Cuesta College, ILP Employment Services
- Cuesta College, ILP California Youth Connection (CYC)
- Aspira Foster and Family Services
- Tri-Counties Regional Services
- Central Coast Family Center
- Los Padres Family Services

We also interviewed a former foster teen and a retired probation officer and reviewed literature addressing this problem. (Appendices B and C)

NARRATIVE

Independent Living Program (ILP)

The Grand Jury investigated the support systems available to help youth ages 16 to 21 transition from foster care to independent living. In this county, the ILP is a collaborative effort of the Department of Social Services, Transitions Mental Health, the Probation Department and Cuesta College. Social workers and probation officers refer teens to ILP after they reach 15 _ years of age. Transitions Mental Health provides extensive case management services for all ILP youth, including assistance with the Transitional Independent Living Plan and connecting youth to significant others.

This program at Cuesta College offers classes in basic living skills such as housekeeping, banking, personal hygiene, and budgeting. They also provide career counseling, vocational training, employment placement and financial aid. Computer classes, auto maintenance and job fairs are also offered. Teens learn how to identify their support systems and how to identify role models that will help them make good choices. Classes are held in the evenings between 5-8 pm. Teens are given \$15 for each class and dinner as an incentive for attending classes. Teens can contact their social worker, probation officer or ILP worker regarding eligibility.

Caregivers

A critical component of meeting the challenge facing emancipating teens is the essential cooperation and support a responsible caregiver or group home staff person may provide. Support can come from the dedication of foster parents, the stability of close relatives or the professional guidance of teachers, social workers, probation officers, mentors or mental health workers. Some working teens use their employers or coworkers as role models. Forging connections with adults can make the difference between success or a future of emptiness and depression.

Housing

Housing is a difficult problem for youth who will no longer be eligible for public funds. The Transitional Housing Placement Program (THPP) was created to provide youth ages 16-18 the opportunity to live semi-independently in the community. This program is currently available for less than a dozen teens through Family Care Network (FCN).

Homeless shelters are a limited option for young people. There are too few shelters and too many homeless families. Shelter staff members confirm approximately 2400 people are homeless in this county, and 1/3 of these are under 21. It is not uncommon to see teens living under bridges, sleeping in cars and creek beds, or dealing drugs. Many are just “on the run” until they exhaust their resources. Some teens, both male and female, turn to prostitution and other crimes to survive. Some run the risk of sexually transmitted diseases. Young women often become pregnant soon after leaving foster care.

Academic and Vocational Education

Besides living skills, academic and vocational education is an important element teens need to plan for their future. A high school diploma or GED can be the doorway to a career with the help of college scholarships and other financial aid. ILP workers provide a wealth of information to foster teens who want to improve themselves and broaden their opportunities. Academic courses are available at Cuesta College through the ILP.

Financial Aid

Eligibility for MediCal, Food Stamps, CalWORKs, Women, Infants and Children (WIC) and other programs for teen moms, as well as one-time housing allowances up to \$800, are available through the Department of Social Services. Former foster teens can apply for college scholarships based on need and academic readiness by working with their case worker or ILP worker.

Transportation

Transportation is a problem for youth who live in rural areas. Teens usually have no access to a car, and there is limited bus service. ILP classes are held at Cuesta College - with some classes at the North Campus - making it difficult for youth who want to participate. Although there is van service for regular classes, no transportation is available for special events. Fortunately, there are a few dedicated ILP workers, responsible foster parents, and relative caregivers who will drive teens to and from their classes.

Advocacy

California Youth Connection (CYC), a statewide advocacy group, consists of current and former foster youth who work together on local and statewide legislation affecting their lives. This program was developed to give teens the opportunity to have an active voice in government by participating in legislative sessions in Sacramento. Ten teens from San Luis Obispo County are currently working on a solution to housing needs.

Work-Related Programs for Physically and Mentally Challenged Youth

North County Industries (NCI) and Achievement House are agencies employing developmentally disabled and mentally ill young people who work at daily jobs. Some live in private residences while others live in licensed board-and-care homes. A private agency, Alpha Academy, operates Thousand Hills Pet Resort, a unique operation that offers a few young men, ages 18-25, the opportunity to work with animals and live in a residential setting.

The Transition Partnership Program (TPP) is a contract partnership between the California Department of Rehabilitation and local education agencies. TPP provides students with disabilities the tools and support necessary to effectively transition from school to competitive employment. (Appendix C, #1)

Mental Health Issues

Research studies of former foster teens have shown these young people are prone to depression, post-traumatic stress, substance abuse, attention-deficit disorder and even schizophrenia. Some need ongoing treatment, medications and a place to stay, which includes daily supervision. In this county, there is a need for this type of facility.

Blended funding projects have been successfully employed in the State of Washington to commingle funds from different agencies to provide services to youth with multiple needs, i.e. mental health problems, substance abuse and homelessness. (Appendix B, #6) According to sources at the Department of Social Services, the County of San Luis Obispo has been operating such programs for about eight years. However, it is not known whether such programs target youth who are leaving the system with multiple problems, which interfere with their ability to support themselves.

Programs Specifically Designed For Emancipated Youth

One solution for housing youth 18-25 is a grant-funded program that combines housing with mentoring. Transitional Housing Placement Program-Plus (THPP-Plus) is a program to provide independent living to aging out youth with oversight in the form of on-site residential advisors. The THPP-Plus is a state program that is not yet available in San Luis Obispo County, although the county is on record in support of current legislation that would permit the county to implement the program.

CONCLUSION

Young adults emerging from foster care have little or no family support and even fewer personal resources. Many leave the system without jobs, stable homes, savings or adults they can count on. Once teens are emancipated, financial aid to their former caregiver is ended. Given the

sudden withdrawal of support and the many problems these young people face, it is both practical and cost-effective to provide adequate housing and services to youth to facilitate this transition.

Even in stable families, some 18 year olds are barely equipped to deal with the demands of today's society without support. "Forging connections with adults who will stick with them through the ups and downs of growing up becomes a necessary survival skill...no one at age 19, 20 or 21 can live without adults," says Steve Cohen, Director, Special Child Welfare Advisory Panel, Annie E. Casey Foundation.

FINDINGS

Finding 1: Many former foster teens are either homeless, or because of substance abuse or other issues, are now in jails, prisons or mental institutions.

Finding 2: Many former foster teens have not acquired the skills or the abilities needed to get a job.

Finding 3: Many former foster teens do not have a support group or relatives to return to or

Finding 4: Many former foster teens have difficulty traveling to Cuesta College to take advantage of the programs offered.

Finding 5: Many former foster girls become pregnant soon after leaving foster care.

Finding 6: Many former foster teens have severe mental health problems that interfere with their ability to hold a job, find housing and support themselves.

Finding 7: Many former foster teens turn to prostitution or other crimes to get money for food and rent.

RECOMMENDATIONS

Recommendation 1: A task force should be formed to provide leadership in addressing the problem of housing for teens aging out of foster care. This task force could be instrumental in seeking grants for residential living in individual or shared apartments with resident advisors. (See Appendix A, Resources) (Finding 1)

Recommendation 2: The Community and Court Schools should be expanded to include programs for youth, emphasizing vocational training and marketable skills. (Finding 2)

Recommendation 3: At least six months prior to emancipation, a mandatory exit plan should be created for each youth to follow which identifies specific support people and local resources. Foster parents need both training and incentives to encourage them to participate in these exit plans. (Findings 3, 4 & 5)

Recommendation 4: ILP classes should be held at convenient times and locations throughout the county. (Finding 4)

REQUIRED RESPONSES

- **The San Luis Obispo County Mental Health Department, Due 08/08/06 (Findings 1, 3, 4, 5, 6 & 7 and Recommendation 1)**
- **The San Luis Obispo County Department of Social Services, Due 08/08/06 (Findings 1, 3, 4, 5, 6 & 7 and Recommendations 1 & 3)**
- **The San Luis Obispo County Probation Department, Due 08/08/06 (Findings 1, 3, 4, 5, 6 & 7 and Recommendation 1)**
- **The San Luis Obispo County Board of Supervisors, Due 09/05/06 (Findings 1, 3, 4, 5, 6 & 7 and Recommendations 1 & 3)**
- **The Cuesta College Independent Living Program, Due 08/08/06 (Finding 4 and Recommendation 4)**
- **The San Luis Obispo County Office of Education, Due 08/08/06 (Finding 2 and Recommendation 2)**

Appendix A

Resources Online:

1. Youth Communications www.youthcomm.org
2. Lighthouse Youth Services www.lvs.org
3. National Resources Center for Youth Services <http://youthlifeskills.nreys.ou.edu/yls.htm>
4. Work Appreciation for Youth www.childrensvillage.org
5. The Annie E. Casey Foundation www.aecf.org
6. Child Welfare League of America www.CWLA.org
7. HUD Resources for Youth www.hud.gov/offices/pih/grants
8. Leaving Foster Care
9. Common Ground Community www.commonground.org

Appendix B

Articles Online:

1. Almost Home, Kendra Hurley www.nhi.org.online/issues/125fostercare
2. Aging Out of Foster Care www.childrensaidsociety.org
3. Aging Out of Foster Care www.pbs.org/newshour/fostercare
4. Supporting Youth Aging Out www.voicesforamericaschildren.org
5. Cuesta College Foster & Kinship Care www.cuesta.org/community/econdev/fce
6. Legislative Report on Blended Funding
Dept. of Social & Health Services,
Olympia, Washington, 12/2001 www1.dshs.wa.gov
7. Children of the Night www.childrenofthenight.org

Appendix C

Books and Periodicals:

1. California Mental Health Directors Association: Children's System of Care/ Transition Age Youth (TAY) Resource Guide, April 29th, 2005.
2. San Luis Obispo County Department of Social Services Child Welfare Services, Third Quarter Report, 2005.
3. "Life Skills Knowledge: A Survey of Foster Adolescents", Edmund Mech, et al., *Children and Youth Services Review*, 1994, Vol. 16, 3-4, pg.181-200.
4. *Moving In: Ten Successful Independent/Transitional Living Programs*, Mark Kroner, ed, Northwest Media, 2001.

RESTRAINING ORDERS: “Paper Thin Protection”

INTRODUCTION

Victims of domestic violence need protection from those who may harm them. The court can issue restraining orders, which are designed to protect domestic violence victims from further abuse by perpetrators. The Grand Jury is concerned that these orders, without accompanying safeguards, may provide a false sense of security to victims and their children. Often they may increase the possibility of further abuse.

To examine how effective restraining orders are in protecting victims of domestic violence, the Grand Jury looked at the problem from three perspectives: the victim’s understanding of the seriousness of the crime; the District Attorney’s responsibility for the prosecution of abusers; the role of law enforcement and the availability of resources in the community. The Grand Jury initiated this inquiry to determine whether this combination of efforts offers women and their children the protection they need to ward off future abuse or whether it may make them more vulnerable to continued domestic violence.

ORIGIN

A current grand jury inquiry of women’s shelters in this county led to a concern about the plight of battered women and to an investigation of measures in place to protect them from the fear of continuing domestic violence. Although men may also become victims of abuse from a spouse or domestic partner, this report will be focusing on women and their children. To determine the degree of safety restraining orders provide, it is important to understand the different types of restraining orders, the procedures for obtaining restraining orders, the enforcement of these orders, how they actually protect victims, and community resources available to support victims and their families.

METHOD

- To understand the role of the victim, the Grand Jury interviewed adult victims of domestic violence and reviewed current literature regarding domestic violence and its impact on children.

- To understand the role of the legal systems in this process, the Grand Jury conducted a roundtable discussion with members of the Domestic Violence Task Force, (the Domestic Violence Investigator and the Victim Witness Program Director) and the directors and legal assistance teams from both county women's shelters. We also had an interview with the District Attorney of San Luis Obispo County (DA). In addition, we reviewed the DA's protocols for the prosecutions of domestic violence crimes. (Bibliography #8). We also held an interview with a family law attorney who specializes in domestic violence cases.
- To understand the role of the Probation Department in dealing with convicted domestic violence offenders, we interviewed a member of the San Luis Obispo County Probation Department.
- To obtain a perspective on efforts aimed at batterers, we conducted an interview with the director of one of the abusers' group (Men Helping Men).
- To understand the role of law enforcement in this process, the Grand Jury:
 -] surveyed all police and sheriff departments in this county regarding domestic violence restraining order enforcement procedures (Appendix A),
 -] reviewed police protocols for dealing with domestic violence incidents and with violations of existing restraining orders,
 -] checked on training courses available at Peace Officers Standards & Training commission (POST) and on the internet at <http://www.post.ca.gov/training>,
 -] examined California Law Enforcement Telecommunication System (CLETS) and Domestic Violence Restraining Orders System (DVROS)
 -] researched literature about recent changes in law enforcement procedures regarding arrests, firearms, and police discretionary powers, and
 -] reviewed current state legislation pertaining to recent changes in domestic violence protocols.

NARRATIVE

Definition of Domestic Violence:

Domestic violence is defined as any type of physical abuse, including hitting, kicking, shoving, choking, hair pulling, throwing objects, sexual assault, breaking into a victim's house or

workplace, and stealing or destroying a victim's property. Also under the rubric of domestic violence is verbal abuse which may include threatening harm or murder, defaming a victim's character to family, neighbors or employers, and harassing or obscene phone calls or emails. Other forms of abuse involve stalking and excessive controlling behavior, such as cutting off the use of the family car, checking accounts and credit cards as well as attempting to isolate the victim from relatives and friends.

The Effects of Domestic Violence on Children:

Domestic violence is a family matter. When incidents of violence are witnessed by children, a myriad of psychological and emotional effects can occur.

- Children witnessing the violence may imitate the batterer and become aggressive in their behavior toward others.
- Children may feel threatened when observing violence and assume the victim role in their own lives.
- Children may become fearful and anxious with the perpetrator, believing they will be physically abused.
- Children may assume they are responsible for the abusive incidents and carry the guilt into later life.
- Children may become the protector of the victim and be more at risk for physical abuse themselves.
- Children may align with the batterer and show hostility and/or disdain for the victim.
- Children may suffer from sleep disturbances, nightmares and bed-wetting, thumb sucking and other regressive behavior.
- Children may develop inappropriate social skills, become isolated and withdrawn.
- Children may have problems in school due to lack of concentration.
- Children have even been maimed or killed by the batterer as a reprisal for a parent getting a restraining order. (See Bibliography)

Children of families who have domestic violence incidents are required to be reported to county Child Welfare Services in accordance with California Penal Code 11166 (i).

Types of Restraining Orders:

EMERGENCY PROTECTIVE ORDER (EPO)

- Police officers respond to 911 calls to determine whether there is an immediate or present danger or a recent incident or threat of abuse.
- Police officers can call a judge at any hour of the day or night to obtain an EPO.

An EPO is a form of a no-contact or a peaceful contact order.

- An EPO becomes enforceable when police inform the restrained party and provide the protected party with a copy of the order.
- An EPO is valid for five court days or seven calendar days (whichever is shorter) until a hearing is held. (Appendix E, EPO)

TEMPORARY RESTRAINING ORDER (TRO)

- A victim applies to Family Court after submission of written affidavit stating reasonable proof of an act or threat of past domestic violence.
- The court can make this ruling *ex parte*, i.e. without giving the alleged offender the opportunity to appear in the court and contest the order.
- The court must schedule a full hearing within 20 days (the duration of the order).
- The order and notice of the hearing must be served on the restraining party for it to become enforceable. (Appendix C, TRO).

ORDER AFTER HEARING (OAH) or PERMANENT RESTRAINING ORDER

- After a full court hearing, the court may issue a permanent restraining order, termed an Order After Hearing, which can last up to three years and can be renewed.
- If the restrained party appears at the hearing, he is considered to be served with the court's order. If not, the OAH may be extended, and a copy is mailed to the party's last known address.
- If the OAH is different than the TRO, the restrained party must be personally served.
- A lifelong restraining order may be granted anytime during the three years without new offenses. The victim need only state a continuing fear of the batterer.
- Family Court, upon issuing a restraining order, may include child custody, child support, visitation orders, and property decisions.

CRIMINAL PROTECTIVE ORDER (CPO)

- Criminal Court can issue a CPO during prosecution and as a condition of probation.
- Copies of the CPO must be given to the victim, the defendant, local law enforcement, and the prosecutor.
- Restraining orders issued as part of the defendant's condition of probation for a domestic violence-related crime expire when the probationary sentence ends (a minimum of three years).

Application for Restraining Orders:

Women's shelters are a source of help in this process. Bilingual brochures and Legal Assistance are available at both shelters to provide victims with information that can guide them through the reporting process.

Once a victim has an EPO, she can apply to Family Court for a TRO. Help in this process can be obtained either from Legal Assistance, a private attorney, or by downloading forms from the Internet. After the judge signs the TRO, it is entered into a statewide database (CLETS) by 5:30 pm of that day. Copies of current orders are kept in the victim's possession at all times.

Terms and Conditions of Restraining Orders:

The abuser may be ordered to maintain a specified distance from the victim. He may either have supervised visitation or no contact with his children, and he will be remanded to a 52-week batterers' program called "Men Helping Men", or another anger management program sponsored by the Probation Department. Those men who fail to attend are reported to Probation for disciplinary action. Offenders must surrender all firearms within 24 hours of the receipt of the restraining orders and are expressly prohibited from purchasing guns during the duration of the orders.

Violations of Restraining Orders:

Noncompliance with any terms of restraining orders is a crime. Violators can be arrested and brought into court. Minor violations can result in a sentence of community service and/or a fine. Major violations can carry a \$700 fine with 90 days in jail. If associated with criminal activity,

violators can be charged as felons, fined up to \$20,000 and may be sentenced up to ten years in prison.

Law Enforcement Reporting of Domestic Violence Crimes:

The Sheriff's Office and the police departments recognize the need for continuing training for dealing with domestic violence crimes. Training and updated information is available online, on CD-ROMs and in telecourses posted on the internet. Officers are given Watch Briefings to keep them aware of recent changes in the law. Law enforcement must now submit a report to Child Welfare Services anytime a child is in a home experiencing a domestic violence incident, whether they are present or not. Law enforcement officers are required to complete a Suspected Child Abuse Report (SCAR) including identifying information, type of domestic abuse and whether the child was present during the incident. Child Welfare Services, upon receiving a SCAR from law enforcement, will assign a social worker to make a complete assessment to determine if services are needed. They will inform law enforcement as to the outcome using the Child Abuse Investigation Report and a letter to the mandated reporter.

Issues and concerns regarding the use of these protocols that cannot be resolved on a case-by-case basis are brought to the DA's Domestic Violence Task Force. This Task Force is composed of representatives from various agencies and advocacy groups who meet periodically to share ideas and provide leadership.

Medical Reporting of Domestic Violence Injuries:

As a result of the Attorney General's Report, Keeping the Promise (see Bibliography #6), a Blue Shield Foundation funded project, Medical Directions, Inc., is expanding its online training for physicians in California. This includes information that would assist them in their legal responsibility to report domestic violence incidents when victims seek treatment for injuries either privately or at a hospital emergency rooms or urgent care centers.

Hospital and urgent care centers need to be aware of the importance of using proper codes to identify domestic violence victims and document their injuries with photographs.

CONCLUSION

Victims of domestic violence who have restraining orders can enhance their level of safety if the terms of the orders are strictly adhered to, and if law enforcement and other community resources are properly utilized to support them. Victims with extended families to help them and batterers with steady jobs may be more likely to obey the terms of the orders. Abusers who understand the impact of their behavior on their children will be more apt to comply with their orders. All of these agencies, working together, may help domestic violence victims guard against further abuse.

However, restraining orders offer no protection if batterers don't keep to 'stay-away' distances, if they don't surrender their firearms, if visits with their children are not strictly supervised as ordered, if the abuser doesn't attend an anger management program or if the restraining orders are not understood by both parties. Violence can escalate if abusers become vindictive. Cultural and language difficulties and the shame associated with battering can prevent victims from reporting these crimes. Police and law enforcement's varying responses to domestic violence are also factors (Appendix A). In 2004, 138 women were murdered in California as a result of domestic disputes. It is not known how many of these women had restraining orders. Nevertheless, a false sense of security for a victim and her family can sometimes become a matter of life or death.

FINDINGS

Finding 1: Victims of domestic violence are often not well informed about resources and community support available to them. They are also reluctant to report incidents of abuse for fear of escalating violence, embarrassment, and/or possible separation from their children.

Finding 2: Research shows the impact of domestic violence on children has a lasting effect in that such children have a strong tendency to experience "the cycle of violence" in their own adult relationships and/or become abusers themselves. (Bibliography #8)

Finding 3: Arrests for domestic violence by law enforcement is inconsistent across law enforcement agencies. (Appendix A)

Finding 4: Despite the law requiring firearms to be surrendered when an EPO is issued, this is not always done. (Appendix B, Tables 7 & 8).

Finding 5: According to information provided to the Grand Jury, participants in counseling groups may go for several weeks without attending meetings before the Probation Department is notified. If a probationer fails to comply with the mandated number of sessions, he is returned to court for violation of probation, and an arrest warrant may be requested.

Finding 6: A batterer who has been convicted of a domestic violence crime and is on probation has a Criminal Protective Order (CPO) preventing him from contact with the victim. When the terms of his probation expire and the CPO is no longer in effect, the Probation Department will conduct an assessment before recommending to the court whether he can be reunited with his family. Batterers with Family Court orders, however, are not assessed, and often repeat their violent actions after the victim takes him back.

RECOMMENDATIONS

Recommendation 1: Information about local resources and services for victims of domestic violence and their children should be disseminated widely through the use of public service announcements in local media outlets and placed on the county's web site. (Findings 1 & 2)

Recommendation 2: Domestic violence training for law enforcement officers, dispatchers and first responders is readily available and needs to be considered an essential element in their training. (Finding 3)

Recommendation 3: Training for law enforcement officers should include a heightened awareness of the need for EPOs, where appropriate, in handling incidences of domestic violence. (Appendix E). When issuing EPOs, law enforcement should distribute bilingual brochures describing the steps to be taken to ensure the safety of each party present at the scene. (Findings 1 & 3)

Recommendation 4: Law enforcement officers should make every effort to insure that batterers surrender their firearms, in accordance with federal and state law. (Finding 4)

Recommendation 5: Batterers with stay-away orders from Family Court should be required to undergo a formal assessment prior to family reunification. (Finding 5)

REQUIRED RESPONSES

- **The City of Arroyo Grande Police Department, Due 08/09/06 (Findings 1 & 3 and Recommendations 2, 3 & 4)**
- **The Arroyo Grande City Council, Due 09/08/06 (Findings 1& 3 and Recommendations 2, 3 & 4)**
- **The City of Atascadero Police Department, Due 08/09/06 (Findings 1 & 3 and Recommendations 2, 3 & 4)**
- **The Atascadero City Council, Due 09/08/06 (Findings 1 & 3 and Recommendations 2, 3 & 4)**
- **The City of Grover Beach Police Department, Due 08/09/06 (Findings 1 & 3 and Recommendations 2, 3 & 4)**
- **The Grover Beach City Council, Due 09/08/06 (Findings 1&3 and Recommendations 2, 3 & 4)**
- **The City of Morro Bay Police Department, Due 08/09/06 (Findings 1 & 3 and Recommendations 2, 3 & 4)**
- **The Morro Bay City Council, Due 09/08/06 (Findings 1 & 3 and Recommendations 2, 3 & 4)**
- **The City of Pismo Beach Police Department, Due 08/09/06 (Findings 1 & 3 and Recommendations 2, 3 & 4)**
- **The Pismo Beach City Council, Due 09/08/06 (Findings 1 & 3 and Recommendations 2, 3 & 4)**
- **The City of Paso Robles Police Department, Due 08/09/06 (Findings 1 & 3 and Recommendations 2, 3 & 4)**
- **The Paso Robles City Council, Due 09/08/06 (Findings 1 & 3 and Recommendations 2, 3 & 4)**
- **The City of San Luis Obispo Police Department, Due 08/09/06 (Findings 1 & 3 and Recommendations 2, 3 & 4)**
- **The San Luis Obispo City Council, Due 09/08/06 (Findings 1 & 3 and Recommendations 2, 3 & 4)**
- **The County of San Luis Obispo Sheriff's Department, Due 08/09/06 (Findings 1 & 3 and Recommendations 2, 3 & 4)**
- **The County of San Luis Obispo Probation Department, Due 08/09/06 (Finding 5 and Recommendation 5)**
- **The County of San Luis Obispo Board of Supervisors, Due 09/08/06 (All Findings and Recommendations)**

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Appendix A

2004 Domestic Violence (DV) and Restraining Order (RO) Statistics for San Luis Obispo County

2004 DOMESTIC VIOLENCE (DV) & RESTRAINING ORDER (RO) STATISTICS FOR SAN LUIS OBISPO COUNTY		Arroyo Grande	Atascadero	Grover Beach	Morro Bay	Paso Robles	Pismo Beach	San Luis Obispo	Unincorporated Area	Total
Documented DV Calls	No.	39	152	101	36	187	54	131	256	956
	%	4.1	15.8	10.6	3.8	19.6	5.6	13.7	26.8	100
DV Arrests	No.	39	79	28	20	65	37	61	187	516
	%	7.5	15.3	5.4	3.8	12.9	7.1	11.8	36.2	100
ROs in CLETS in District Originating in 2004	No.	83	314	80	58	107	169	NOT AVAIL.	NOT AVAIL.	811
	%	10.2	38.7	9.9	7.1	13.2	20.9			100
Arrests DV/RO Violations	No.	7	6	12	5	23	1	4	55	113
	%	6.2	5.3	10.6	4.4	20.4	.9	3.5	48.7	100
2000 Census Population Last available figures for all reporting venues	No.	16K	26K	13K	10K	24K	9K	44K	105K	247K
	%	6.5	10.5	5.3	4.0	9.7	3.6	17.8	42.9	99.9

In addition, each law enforcement agency was asked to describe the training officers receive in dealing with domestic violence and restraining orders. Basically, the policing agencies in the county adhere to a combination of "Peace Officer Standards & Training," [POST], and the "San Luis Obispo County Domestic Violence Protocol." No significant differences exist among the departments queried.

Appendix B

**Orders After Hearing (OAH)
and
Criminal Protective Orders (CPO)
as listed in
Domestic Violence Restraining Order
System (DVROS)
as of
May 11, 2004 and October 18, 2004**

Table 7
Orders After Hearing (OAH) without Firearms Prohibition as listed in Domestic Violence Restraining Order System (DVROS) as of May 11, 2004 and October 18, 2004

County with population 100,000 or more	OAH 5/11/04			OAH 10/18/04			County with population less than 100,000	OAH 5/11/04			OAH 10/18/04		
	Total	Without firearms prohibition	Percent	Total	Without firearms prohibition	Percent		Total	Without firearms prohibition	Percent	Total	Without firearms prohibition	Percent
San Francisco	1,853	305	16.5%	1,729	335	19.4%	Lake	364	120	33.0%	339	68	20.1%
Madera	230	29	12.6%	236	20	8.5%	Modoc	77	16	20.8%	74	13	17.6%
Los Angeles	18,600	1,331	7.2%	18,284	878	4.8%	Colusa	15	4	26.7%	16	2	12.5%
San Mateo	1,111	96	8.6%	1,056	44	4.2%	Plumas	64	9	14.1%	80	8	10.0%
Ventura	1,245	77	6.2%	1,172	48	4.1%	San Benito	89	9	10.1%	87	8	9.2%
Butte	621	36	5.8%	608	24	3.9%	Mono	21	11	52.4%	22	2	9.1%
San Bernardino	3,919	272	6.9%	3,995	139	3.5%	Mariposa	46	3	6.5%	52	3	5.8%
Santa Clara	2,962	63	2.1%	2,924	100	3.4%	Tehama	128	6	4.7%	131	7	5.3%
Humboldt	343	41	12.0%	304	10	3.3%	Nevada	263	14	5.3%	255	10	3.9%
Imperial	334	38	11.4%	332	8	2.4%	Lassen	86	19	22.1%	81	2	2.5%
Yolo	383	18	4.7%	373	8	2.1%	Siskiyou	273	29	10.6%	280	5	1.8%
Orange	5,217	151	2.9%	5,126	105	2.0%	Del Norte	92	17	18.5%	84	1	1.2%
Alameda	2,377	147	6.2%	2,459	45	1.8%	Calaveras	122	7	5.7%	111	1	0.9%
Merced	853	68	8.0%	875	15	1.7%	Mendocino	400	13	3.3%	435	1	0.2%
Shasta	478	13	2.7%	500	8	1.6%	Alpine	4	0	0.0%	2	0	0.0%
Riverside	4,981	149	3.0%	5,060	74	1.5%	Amador	59	0	0.0%	60	0	0.0%
Kern	1,386	223	16.1%	1,361	19	1.4%	Glenn	97	10	10.3%	93	0	0.0%
Sacramento	3,233	56	1.7%	3,178	43	1.4%	Inyo	81	1	1.2%	68	0	0.0%
San Joaquin	1,343	40	3.0%	1,291	15	1.2%	Sierra	14	1	7.1%	13	0	0.0%
Monterey	707	16	2.3%	705	8	1.1%	Sutter	310	5	1.6%	322	0	0.0%
San Luis Obispo	459	26	5.7%	525	5	1.0%	Trinity	73	5	6.8%	81	0	0.0%
Napa	292	13	4.5%	323	3	0.9%	Tuolumne	62	2	3.2%	67	0	0.0%
Marin	357	13	3.6%	355	3	0.8%	Yuba	166	32	19.3%	164	0	0.0%
Fresno	1,827	118	6.5%	1,923	15	0.8%	Total	2,906	333	11.5%	2,917	131	4.5%
San Diego	8,387	200	2.4%	8,161	57	0.7%							
Santa Cruz	569	30	5.3%	582	4	0.7%							
Tulare	1,012	73	7.2%	1,006	6	0.6%							
Solano	1,057	24	2.3%	1,030	4	0.4%							
Stanislaus	1,510	25	1.7%	1,490	3	0.2%							
Sonoma	1,063	3	0.3%	1,024	2	0.2%							
Placer	1,086	57	5.2%	1,052	2	0.2%							
Contra Costa	2,750	4	0.1%	2,825	4	0.1%							
Santa Barbara	722	103	14.3%	6,992	2	0.0%							
El Dorado	385	17	4.4%	384	0	0.0%							
Kings	229	7	3.1%	158	0	0.0%							
Total	73,881	3,882	5.3%	79,398	2,056	2.6%							

Note:
Since October 2004, San Francisco Police Department has re-examined and significantly improved the entry of firearms prohibition into DVROS.

Table 8
Criminal Protective Orders (CPO) without Firearms Prohibition as listed in Domestic Violence Restraining Order System (DVROS) as of May 11, 2004 and October 18, 2004

County with population 100,000 or more	CPO 5/11/04			CPO 10/18/04		
	Total	Without firearms prohibition Number	Percent	Total	Without firearms prohibition Number	Percent
Butte	568	205	36.1%	702	165	23.5%
Madera	7	3	42.9%	95	12	12.6%
Yolo	1,363	108	7.9%	1,433	100	7.0%
Ventura	285	45	15.8%	469	24	5.1%
Alameda	9,813	1,988	20.3%	10,303	387	3.8%
Riverside	155	5	3.2%	392	12	3.1%
Stanislaus	15	2	13.3%	72	2	2.8%
Tulare	192	31	16.1%	451	10	2.2%
Los Angeles	45,270	1,117	2.5%	45,050	678	1.5%
San Bernardino	984	35	3.6%	1,668	21	1.3%
Merced	790	85	10.8%	985	12	1.2%
Monterey	1,855	62	3.3%	1,786	18	1.0%
Humboldt	189	16	8.5%	200	2	1.0%
Santa Clara	9,275	70	0.8%	9,576	87	0.9%
Sonoma	1,301	44	3.4%	1,239	11	0.9%
El Dorado	781	53	6.8%	908	8	0.9%
Kern	1,136	11	1.0%	1,206	8	0.7%
Solano	112	9	8.0%	512	3	0.6%
Santa Barbara	1,098	22	2.0%	1,243	6	0.5%
San Luis Obispo	1,710	122	7.1%	1,789	8	0.4%
San Mateo	3,650	51	1.4%	3,868	17	0.4%
San Joaquin	4,635	43	0.9%	4,753	13	0.3%
Fresno	1,994	26	1.3%	2,508	5	0.2%
Contra Costa	2,549	6	0.2%	2,684	5	0.2%
Marin	1,149	10	0.9%	1,231	2	0.2%
San Diego	3,984	119	3.0%	4,787	7	0.1%
Placer	1,172	29	2.5%	1,387	2	0.1%
Sacramento	1,746	4	0.2%	1,688	1	0.1%
Santa Cruz	1,916	12	0.6%	1,944	1	0.1%
Orange	13,462	13	0.1%	15,205	4	0.0%
Imperial	0	0	-	24	0	0.0%
Kings	2	0	0.0%	5	0	0.0%
Napa	4	0	0.0%	87	0	0.0%
Shasta	216	0	0.0%	251	0	0.0%
Total	113,378	4,346	3.8%	120,501	1,631	1.4%

County with population less than 100,000	CPO 5/11/04			CPO 10/18/04		
	Total	Without firearms prohibition Number	Percent	Total	Without firearms prohibition Number	Percent
San Benito	42	19	45.2%	63	35	55.6%
Mariposa	127	20	15.7%	147	14	9.5%
Colusa	95	14	14.7%	96	8	8.3%
Sierra	10	1	10.0%	16	1	6.3%
Yuba	33	3	9.1%	62	3	4.8%
Plumas	115	3	2.6%	102	3	2.9%
Amador	87	10	11.5%	132	2	1.5%
Lake	315	38	12.1%	419	6	1.4%
Tuolumne	455	110	24.2%	537	5	0.9%
Glenn	276	15	5.4%	265	2	0.8%
Siskiyou	557	48	8.6%	569	4	0.7%
Mendocino	1,160	64	5.5%	1,261	3	0.2%
Calaveras	254	8	3.1%	304	0	0.0%
Del Norte	128	16	12.5%	147	0	0.0%
Inyo	114	5	4.4%	151	0	0.0%
Mono	1	0	0.0%	1	0	0.0%
Nevada	1	0	0.0%	2	0	0.0%
Sutter	3	0	0.0%	3	0	0.0%
Tehama	1	0	0.0%	1	0	0.0%
Trinity	5	0	0.0%	4	0	0.0%
Alpine	0	0	-	0	0	-
Lassen	0	0	-	0	0	-
Modoc	0	0	-	0	0	-
Total	3,779	374	9.9%	4,282	86	2.0%

Note:

1) San Francisco is not included in this table because it entered all CPOs into DVROS, regardless of whether they are related to domestic violence. Since October 2004, San Francisco Police Department re-examined and improved the way it enters CPOs in DVROS.

Appendix C

Temporary Restraining Order and Notice of Hearing (Form DV-110)

DV-110**Temporary Restraining
Order and Notice of Hearing**

- ① Name of person asking for protection (protected person): _____

Protected person's address (*skip this if you have a lawyer*): (*If you want your address to be private, give a mailing address instead*): _____

City: _____ State: _____ Zip: _____

Telephone number: _____

Protected person's lawyer (*if any*): (*Name, address, telephone number, and State Bar number*): _____

- ② Restrained person's name: _____

Description of that person: Sex: ☐ M ☐ F Height: _____

Weight: _____ Race: _____ Hair Color: _____

Eye Color: _____ Age: _____ Date of Birth: _____

- ③ List the full names of all family or household members protected by this order: _____

- ④ **Court Hearing Date (Fecha de la Audiencia)**

Clerk will fill out section below.

**Hearing
Date** →

Date: _____ Time: _____ Name and address of court if different from above: _____

Dept.: _____ Rm.: _____

To the person in ②: At the hearing, the judge can make restraining orders that last for up to 3 years. The judge can also make other orders about your children, child support, spousal support, money, and property. At the hearing, you can tell the judge that you do not want the orders against you. Even if you do not attend the hearing, you *must* obey the orders.

Para la persona nombrada en ②: En esta audiencia el juez puede hacer que la orden de restricción sea válida hasta un máximo de 3 años. El juez puede también hacer otras órdenes acerca de niños, manutención, dinero y propiedad. Si Usted se opone a estas órdenes, vaya a la audiencia y dígaselo al juez. Aunque no vaya a la audiencia, tiene que obedecer estas órdenes.

To the person in ①: At the hearing, the judge will consider whether denial of any orders will jeopardize your safety and the safety of children for whom you are requesting custody visitation and child support. Safety concerns related to your financial needs and the children's will also be considered.

- ⑤ **Temporary Orders (Ordenes Temporales)**

Any orders made in this form end at the time of the court hearing in ④, unless a judge extends them.

Read this form carefully. All checked boxes ☒ and items 10 and 11 are court orders.

Todas las órdenes hechas en este formulario terminarán en la fecha y hora de la audiencia en ④, al menos que un juez las extienda. Lea este formulario con cuidado. Todas las casillas marcadas ☒ y artículo 10 son órdenes de la corte.

This is a Court Order.

**Temporary Restraining Order
and Notice of Hearing (CLETS—TRO)
(Domestic Violence Prevention)**

Judicial Council of California, www.courtinfo.ca.gov
Revised July 1, 2005, Mandatory Form
Family Code, § 6200 et seq. Approved by DCU

DV-110, Page 1 of 5 →

American LegalNet, Inc.
www.USCourtForms.com

To keep other people from seeing what you entered on your form, please press the Clear This Form button at the end of the form when finished.

Fill in court name and street address:

Superior Court of California, County of _____

Clerk fills in case number:

Case Number: _____

Case Number: _____

Your name: _____

6 ☐ **Personal Conduct Orders**

The person in **(2)** must *not* do the following things to the protected people listed in **(1)** and **(3)**:

- a. ☐ Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, or block movements
- b. ☐ Contact (either directly or indirectly), or telephone, or send messages or mail or e-mail
 - ☐ Except for brief and peaceful contact as required for court-ordered visitation of children unless a criminal protective order says otherwise

Peaceful written contact through a process server or another person to serve legal papers is allowed and does not violate this order.

7 ☐ **Stay-Away Order**

The person in **(2)** must stay at least _____ yards away from:

- a. ☐ The person listed in **(1)**
- b. ☐ The people listed in **(3)**
- c. ☐ Home ☐ Job ☐ Vehicle of person in **(1)**
- d. ☐ The children's school or child care
- e. ☐ Other (*specify*): _____

8 ☐ **Move-Out Order**

The person in **(2)** must take only personal clothing and belongings needed until the hearing and move out immediately from (*address*): _____

9 ☐ **Child Custody and Visitation Order**

- a. ☐ You and the other parent must make an appointment for court mediation (*address and phone number*): _____
- b. ☐ Follow the orders listed in Form DV-140, which is attached.

10 ☐ **No Guns or Other Firearms**

The person in **(2)** cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get a gun or firearm.

11 ☐ **Turn in or sell guns or firearms:**

The person in **(2)**:

- Must sell to a licensed gun dealer or turn in to police any guns or firearms that he or she has or controls. This must be done within 24 hours of receiving this order.
- Must bring a receipt to the court within 72 hours of receiving this order, to prove that guns and firearms have been turned in or sold.

12 ☐ **Property Control**

Until the hearing, *only* the person in **(1)** can use, control, and possess the following property and things:

This is a Court Order.

Revised July 1, 2005

**Temporary Restraining Order
and Notice of Hearing (CLETS—TRO)**
(Domestic Violence Prevention)

DV-110, Page 2 of 5



Your name: _____

Case Number: _____

13 ☐ **Property Restraint**

If the people in ① and ② are married to each other or are registered domestic partners, they must not transfer, borrow against, sell, hide, or get rid of or destroy any property, except in the usual course of business or for necessities of life. In addition, each person must notify the other of any new or big expenses and explain them to the court.

14 ☐ **Record Unlawful Communications**

The person in ① can record communications made by the person in ② that violate the judge's orders.

15 **No Fee to Notify**

If the sheriff or marshal serves this order, he or she will do it for free.

16 ☐ **Other Orders** (specify): _____

17 If the judge makes a restraining order at the hearing, which has the same orders as in this form, the person in ② will get a copy of that order by mail at his or her last known address. (Write restrained person's address here): _____

If this address is not correct, or to know if the orders were made permanent, contact the court.

18 ☐ **Time for Service**

A To: Person Asking for Order

Someone 18 or over—not you or the other protected people—must personally “serve” a copy of this order to the restrained person at least _____ days before the hearing.

B To: Person Served With Order

If you want to respond in writing, someone 18 or over—not you—must “serve” Form DV-120 on the person in ①, then file it with the court at least _____ days before the hearing.

For help with Service or answering, read Form DV-210 or DV-540.

Date: _____

►

Judge (or Judicial Officer)

Certificate of Compliance With VAWA

This temporary protective order meets all Full Faith and Credit requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994) (VAWA) upon notice of the restrained person. This court has jurisdiction over the parties and the subject matter; the restrained person has been or will be afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. **This order is valid and entitled to enforcement in all jurisdictions throughout the 50 United States, the District of Columbia, all tribal lands, and all U.S. territories, commonwealths, and possessions and shall be enforced as if it were an order of that jurisdiction.**

This is a Court Order.

Revised July 1, 2005

**Temporary Restraining Order
and Notice of Hearing (CLETS—TRO)
(Domestic Violence Prevention)**

DV-110, Page 3 of 5



Your name: _____

Case Number: _____

Warnings and Notices to the Restrained Person in ②

19 If you do not obey this order, you can be arrested and charged with a crime.

- It is a felony to take or hide a child in violation of this order. You can go to prison and/or pay a fine.
- If you travel to another state or to tribal lands, or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime.
- If you do not obey this order, you can go to prison and/or pay a fine.

20 You cannot have guns or firearms.



You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get a gun while the order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to a gun dealer or turn in to police any guns or firearms that you have or control. The judge will ask you for proof that you did so. If you do not obey this order, you can be charged with a crime. Federal law says you cannot have guns or ammunition if you are subject to a restraining order made after a noticed hearing.

21 After You Have Been Served With a Restraining Order

- Obey all the orders.
- If you want to respond, fill out Form DV-120. Take it to the court clerk with the forms listed in item ②②.
- File DV-120 and have all papers served on the protected person by the date listed in item ①⑧ of this form.
- At the hearing, tell the judge if you agree or disagree with the orders requested.
- Even if you do not attend the hearing, the judge can make the restraining orders last for 3 years.

22 Child Custody, Visitation, and Support

- Child Custody and Visitation: If you do not go to the hearing, the judge can make custody and visitation orders for your children without hearing your side.
- Child Support: The judge can order child support based on the income of both parents. The judge can also have that support taken directly from your paycheck. Child support can be a lot of money, and usually you have to pay until the child is 18. File and serve a *Financial Statement* (FL-155) or an *Income and Expense Declaration* (FL-150) so the judge will have information about your finances. Otherwise, the court may make support orders without hearing your side.
- Spousal Support: File and serve a *Financial Statement* (FL-155) or an *Income and Expense Declaration* (FL-150) so the judge will have information about your finances. Otherwise, the court may make support orders without hearing your side.

This is a Court Order.

Revised July 1, 2005

**Temporary Restraining Order
and Notice of Hearing (CLETS—TRO)
(Domestic Violence Prevention)**

DV-110, Page 4 of 5



Your name: _____

Case Number: _____

Instructions for Law Enforcement

23 Start Date and End Date of Orders

The start date is the date next to the judge's signature on page 3. The orders end on the hearing date on page 1 or the hearing date on Form DV-125, if attached.

24 Arrest Required If Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6.

25 Notice/Proof of Service

- Law enforcement must first determine if the restrained person had notice of the orders. If notice cannot be verified, the restrained person must be advised of the terms of the orders. If the restrained person then fails to obey the orders, the officer must enforce them. (Fam. Code, § 6383.)

Consider the restrained person "served" (noticed) if:

- The officer sees a copy of the Proof of Service or confirms that the Proof of Service is on file *or*
- The restrained person was at the restraining order hearing or was informed of the order by an officer (Fam. Code, § 6383; Pen. Code, § 836(c)(2).) An officer can obtain information about the contents of the order in the Domestic Violence Restraining Orders System (DVROS). (Fam. Code, § 6381(b)(c).)

26 If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, the orders remain in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

27 Child Custody and Visitation

- Custody and visitation orders are on Form DV-140, items ③ and ④. They are sometimes also written on additional pages or referenced in DV-140 or other orders that are not part of the restraining order.
- Forms DV-100 and DV-105 are not orders. Do not enforce them.

28 Enforcing the Restraining Order in California

Any law enforcement officer in California who receives, sees, or verifies the orders on a paper copy, or on the California Law Enforcement Telecommunications System (CLETS), or in an NCIC Protection Order File must enforce the orders.

29 Conflicting Orders

If a criminal restraining order (CR-160) conflicts with a civil restraining order (DV-110 or DV-130), enforce the criminal order. Even if the criminal order is older, the officer must still enforce it over the civil order. (Pen. Code, § 136.2(h).) Any nonconflicting terms of the civil restraining order remain in full force.

Clerk's Certificate
[seal]

I certify that this Temporary Restraining Order is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Revised July 1, 2005

**Temporary Restraining Order
and Notice of Hearing (CLETS—TRO)
(Domestic Violence Prevention)**

DV-110, Page 5 of 5

Print This Form

For your protection and privacy, please press the
Clear This Form button after you have printed the form.

Clear This Form

Appendix D

SUSPICIOUS INJURY REPORT (Form OES-920)



INFORMATION DISCLOSURE

This form is for law enforcement use only and is confidential in accordance with Section 11163.2 of the Penal Code. This form shall not be disclosed except by local law enforcement agencies to those involved in the investigation of the report or the enforcement of a criminal law implicated by this report. In no case shall the person identified as a suspect be allowed access to the injured person's whereabouts. The person making this report shall not be required to disclose his/her identity to their employer (PC 11160).

Part A: PATIENT WITH SUSPICIOUS INJURY

1. PATIENT'S NAME (Last, First, Middle)	2. BIRTH DATE	3. GENDER <input type="checkbox"/> M <input type="checkbox"/> F	4. SAFE PHONE NUMBER ()
5. PATIENT'S RESIDING ADDRESS (Number and Street / Apt. - NO P.O. Box)		City	State Zip
6. PATIENT SPEAKS ENGLISH <input type="checkbox"/> Y <input type="checkbox"/> N - Identify language spoken: _____		7. DATE AND TIME OF INJURY Date: _____ Time: <input type="checkbox"/> am <input type="checkbox"/> pm <input type="checkbox"/> Unknown	
8. LOCATION / ADDRESS WHERE INJURY OCCURRED, IF AVAILABLE - Check here if unknown: <input type="checkbox"/>			

9. PATIENT'S COMMENTS ABOUT THE INCIDENT - Include any identifying information about the person the patient alleges caused the injury and the names of any persons who may know about the incident.	<input type="checkbox"/> ADDITIONAL PAGES ATTACHED
---	--

10. NAME OF SUSPECT - If identified by the patient	11. RELATIONSHIP TO PATIENT, IF ANY	
12. SUSPICIOUS INJURY DESCRIPTION - Include a brief description of physical findings and the final diagnosis.		<input type="checkbox"/> ADDITIONAL PAGES ATTACHED

Part B: REQUIRED - AGENCIES RECEIVING PHONE AND WRITTEN REPORTS

13. LAW ENFORCEMENT AGENCY NOTIFIED BY PHONE (Mandated by PC 11160)		14. DATE AND TIME REPORTED Date: _____ Time: <input type="checkbox"/> am <input type="checkbox"/> pm	
15. NAME OF PERSON RECEIVING PHONE REPORT (First and Last)	16. JOB TITLE	17. PHONE NUMBER ()	
18. LAW ENFORCEMENT AGENCY RECEIVING WRITTEN REPORT (Mandated by PC 11160)		19. AGENCY INCIDENT NUMBER	

Part C: PERSON FILING REPORT

20. EMPLOYER'S NAME		21. PHONE NUMBER ()
22. EMPLOYER'S ADDRESS (Number and Street)		City State Zip
23. NAME OF HEALTH PRACTITIONER (First and Last)	24. JOB TITLE	
25. HEALTH PRACTITIONER'S SIGNATURE:		26. DATE SIGNED:

Instructions To The Health Practitioner

Penal Code Section 11160 *mandates* the following regarding suspicious injuries:

- Internal procedures established to facilitate reporting and apprise supervisors and administrators of reports shall be consistent with the reporting requirements of PC Section 11160. The internal procedures shall not require any employee who must make a report to disclose his or her identity to the employer.
- Report suspicious injuries to your local law enforcement agency by telephone **immediately**, or as soon as practically possible.
- Submit the required completed written report to your local law enforcement agency *within two working days of discovering a suspicious injury*, whether or not:
 - The person has expired;
 - The injury was a factor contributing to the person's death; or
 - Evidence of the conduct of the perpetrator is discovered during an autopsy.
- Use this standard form or a form, developed and adopted by another state agency, that otherwise fulfills the requirements of this form, (see "Exceptions to using this form" below).
- Two or more health practitioners with knowledge of a suspicious injury may mutually select a team member to make the telephone report and one written report signed by the selected team member. A team member who knows that the selected team member has not made the telephone call or submitted the written report shall make the report(s).
- No supervisor or administrator shall impede or inhibit the required reporting duties, and no person making a report pursuant to this section shall be subject to any sanction for making the report.

Exceptions To Using This Form

Other state reporting mandates pre-empt the use of this form to report suspicious injuries, as follows:

Incident	Form	Source of Form
Physical Child Abuse	SS 8572	Call California Department of Justice at (916) 227-3285.
Dependent Adult / Elder Abuse	SOC 341	Online: http://www.dss.cahwnet.gov/pdf/SOC341.pdf or contact your local County Adult Protective Services Dept.
Sexual Assault – Adult*	OCJP 923*	Online: www.oes.ca.gov under Plans and Publications or call OES at (916) 324-9100.
Sexual Assault – Child*	OCJP 925* OCJP 930*	

*Use these forms to conduct a forensic examination of the victim. Otherwise, use this Suspicious Injury Report form.

Definitions

Health Practitioner – Provides medical services to a patient for a physical condition that he/she reasonably suspects is a suspicious injury as listed below, and is employed in a health facility, clinic, physician's office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department.

Suspicious Injury – Includes any wound or other physical injury that either was:

- Inflicted by the injured person's own act or by another where the injury is by means of a firearm, OR
- Is suspected to be the result of *assaultive or abusive conduct* inflicted upon the injured person.

Injury – Shall not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.

Assaultive / Abusive Conduct – includes committing, or an attempt to commit, any of the following Penal Code violations:

- | | | | |
|---|---|--|---|
| <ul style="list-style-type: none"> Abuse of spouse or cohabitant Aggravated mayhem Administering controlled substances or anesthetic to aid in the commission of a felony Assault with a stun gun or taser Assault with a deadly weapon, firearm, assault weapon or machine gun, or by means likely to produce great bodily injury | <ul style="list-style-type: none"> Assault with intent to commit mayhem, rape, sodomy, or oral copulation Battery Child abuse or endangerment (including Statutory Rape) Elder abuse Incest Lewd and lascivious acts with a child | <ul style="list-style-type: none"> Murder Manslaughter Mayhem Oral copulation Procuring any female to have sex with another man Rape Sexual battery Sexual penetration | <ul style="list-style-type: none"> Sodomy Spousal rape Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure Torture |
|---|---|--|---|

Appendix E

APPLICATION FOR EMERGENCY PROTECTIVE ORDER (Form 1295.90)

APPLICATION FOR EMERGENCY PROTECTIVE ORDER (CLETS)

1295.90

(Name): _____ has provided the information in items 1-5.

1. PERSON(S) TO BE PROTECTED (insert names of all persons to be protected by this order): _____

LAW ENFORCEMENT CASE NUMBER: _____

2. PERSON TO BE RESTRAINED (name): _____

Sex: ☐ M ☐ F Ht.: _____ Wt.: _____ Hair color: _____ Eye color: _____ Race: _____ Age: _____ Date of birth: _____

3. The events that cause the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking (including workplace violence or civil harassment) are (give facts and dates; specify weapons): _____

4. ☐ The person to be protected lives with the person to be restrained and requests an order that the restrained person move out immediately from the address in item 9.5. a. ☐ The person to be protected has minor children in common with the person to be restrained, and a temporary custody order is requested because of the facts alleged in item 3. A custody order ☐ does ☐ does not exist.b. ☐ The person to be protected is a minor child in immediate danger of being abducted by the person to be restrained because of the facts alleged in item 3.6. ☐ A child welfare worker or probation officer has advised the undersigned that a juvenile court petition ☐ will be filed. ☐ will NOT be filed.7. ☐ Adult Protective Services has been notified.

8. Phone call to (name of judicial officer): _____ on (date): _____ at (time): _____

☐ The judicial officer granted the Emergency Protective Order that follows.

By: _____

(PRINT NAME OF LAW ENFORCEMENT OFFICER)

(SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: _____ Telephone No.: _____ Badge No.: _____

EMERGENCY PROTECTIVE ORDER

9. To restrained person (name): _____

a. ☐ You must not contact, molest, harass, attack, strike, threaten, sexually assault, batter, telephone, send any messages to, follow, stalk, destroy any personal property, or disturb the peace of each person named in item 1.b. ☐ You must ☐ stay away at least _____ yards from each person named in item 1.
☐ stay away at least _____ yards from ☐ move out immediately from

(address): _____

10. ☐ (Name): _____ is given temporary care and control of the following minor children of the parties (names and ages): _____

11. Reasonable grounds for the issuance of this order exist and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking (including workplace violence or civil harassment).

12. THIS EMERGENCY PROTECTIVE ORDER WILL EXPIRE AT 5:00 P.M. ON: _____

To protected person: If you need protection for a longer period of time, you must request permanent protective orders at (court name and address): _____

INSERT DATE OF FIFTH COURT DAY OR SEVENTH CALENDAR DAY, WHICHEVER IS EARLIER; DO NOT COUNT DAY THE ORDER IS GRANTED

PROOF OF SERVICE

13. Person served (name): _____

14. I personally delivered copies to the person served as follows: Date: _____ Time: _____

Address: _____

15. At the time of service I was at least 18 years of age and not a party to this cause.

16. My name, address, and telephone number are (this does not have to be server's home telephone number or address): _____

☐ California sheriff or marshal

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME OF SERVER)

(See reverse for important notices)

(SIGNATURE OF SERVER)

Form Adopted for Mandatory Use
Judicial Council of California
1295.90 (Rev. January 1, 2000)
Approved by DOJEMERGENCY PROTECTIVE ORDER (CLETS)
(Domestic Violence, Child Abuse, Elder or Dependent
Adult Abuse, Workplace Violence, Civil Harassment)WEST GROUP
Official PublisherFamily Code, § 6240 et seq.
Penal Code, § 646.91

ONE copy to court, ONE copy to restrained person, ONE copy to protected person, ONE copy to issuing agency

EMERGENCY PROTECTIVE ORDER WARNINGS AND INFORMATION

VIOLATION OF THIS ORDER IS A MISDEMEANOR PUNISHABLE BY A \$1,000 FINE, ONE YEAR IN JAIL, OR BOTH, OR MAY BE PUNISHABLE AS A FELONY. PENAL CODE SECTION 12021(g) PROHIBITS ANY PERSON SUBJECT TO A RESTRAINING ORDER FROM PURCHASING OR ATTEMPTING TO PURCHASE OR OTHERWISE OBTAIN A FIREARM. SUCH CONDUCT IS SUBJECT TO A \$1,000 FINE AND IMPRISONMENT OR BOTH. THIS ORDER SHALL BE ENFORCED BY ALL LAW ENFORCEMENT OFFICERS IN THE STATE OF CALIFORNIA WHO ARE AWARE OF OR SHOWN A COPY OF THE ORDER. UNDER PENAL CODE SECTION 13710(b), "THE TERMS AND CONDITIONS OF THE PROTECTION ORDER REMAIN ENFORCEABLE, NOTWITHSTANDING THE ACTS OF THE PARTIES, AND MAY BE CHANGED ONLY BY ORDER OF THE COURT."

To the restrained person: This order will last until the date and time in item 12 on the reverse. The protected person may, however, obtain a more permanent restraining order when the court opens. You may seek the advice of an attorney as to any matter connected with this order. The attorney should be consulted promptly so that the attorney may assist you in responding to the order.

A la persona bajo restricción judicial: Esta orden durará hasta la fecha y hora indicadas en el punto 12 al dorso. La persona protegida puede, sin embargo, obtener una Orden de entredicho (restricción judicial) más permanente cuando la corte abra. Usted puede consultar a un abogado en conexión con cualquier asunto relacionado con esta orden. Debe consultar al abogado sin pérdida de tiempo para que él o ella le pueda ayudar a responder a la orden.

To the protected person: This order will last only until the date and time noted in item 12 on the reverse. If you wish to seek continuing protection, you will have to apply for an order from the court at the address on the reverse, when it opens, or you should apply to the court in the county where you live if it is a different county and the violence is likely to occur there. You may apply for a protective order free of charge. In the case of an endangered child, you may also apply for a more permanent order at the address on the reverse, or if there is a juvenile dependency action pending you may apply for a more permanent order under section 213.5 of the Welfare and Institutions Code. In the case of a child being abducted, you may apply for a *Child Custody Order* from the court at the address on the reverse side of this form. You may seek the advice of an attorney as to any matter connected with your application for any future court orders. The attorney should be consulted promptly so that the attorney may assist you in making your application. You do not have to have an attorney to get the protective order.

A la persona protegida: Esta orden durará sólo hasta la fecha y hora indicadas en el punto 12 al dorso. Si usted desea que la protección continúe, tendrá que solicitar una orden de la corte en la dirección indicada al dorso cuando la corte abra, o tendrá que hacer la solicitud ante la corte del condado donde usted vive, si se trata de un condado diferente y es probable que la violencia ocurra allí. La solicitud de la orden de protección es gratis. En el caso de que un niño o una niña se encuentre en peligro, puede solicitar una orden más permanente en la dirección indicada al dorso o, si hay una acción legal pendiente de tutela juvenil, puede solicitar una orden más permanente conforme a la sección 213.5 del código titulado en inglés **Welfare and Institutions Code**. En el caso del secuestro de un niño o una niña, usted puede solicitar de la corte una Orden para la guarda del niño o de la niña (*Child Custody Order*), en la dirección indicada al dorso de este formulario. Puede consultar a un abogado en conexión con cualquier asunto relacionado con las solicitudes de órdenes de la corte que usted presente en el futuro. Debe consultar un abogado sin pérdida de tiempo para que él o ella le pueda ayudar a presentar su solicitud. Para obtener la orden de protección no es necesario que un abogado le represente.

To law enforcement: Penal Code section 13710(c) provides that, upon request, law enforcement shall serve the party to be restrained at the scene of a domestic violence incident or at any time the restrained party is in custody. The officer who requested the emergency protective order, while on duty, shall carry copies of the order. The emergency protective order shall be served upon the restrained party by the officer, if the restrained party can reasonably be located, and a copy shall be given to the protected party. A copy also shall be filed with the court as soon as practicable after issuance. The availability of an emergency protective order shall not be affected by the fact that the endangered person has vacated the household to avoid abuse. A law enforcement officer shall use every reasonable means to enforce an emergency protective order issued pursuant to this subdivision. A law enforcement officer acting pursuant to this subdivision shall not be held civilly or criminally liable if he or she has acted in good faith with regard thereto.

If a child is in danger of being abducted: This order will last only until the date and time noted in the *Emergency Protective Order*. You may apply for a child custody order from the court, on the reverse side of this form.

En el caso de peligro de secuestro de un niño o de una niña: Esta orden será válida sólo hasta la hora y fecha indicadas en la Orden de protección de emergencia (*Emergency Protective Order*). Usted puede solicitar de la corte una Orden para la guarda del niño o de la niña (*Child Custody Order*), en la dirección indicada al dorso.

This emergency protective order is effective when made. This order shall expire not later than the close of judicial business on the fifth day of judicial business following the day of its issue. An emergency protective order is also available to prevent the occurrence of child abuse.

1295.90 [Rev. January 1, 2000]

EMERGENCY PROTECTIVE ORDER (CLETS)
(Domestic Violence, Child Abuse, Elder or Dependent
Adult Abuse, Workplace Violence, Civil Harassment)

ONE copy to court, ONE copy to restrained person, ONE copy to protected person, ONE copy to issuing agency

WEST GROUP
Official Publisher

Page two

SAN LUIS OBISPO COUNTY FLEET GARAGE

In 2001-02, the Grand Jury recommended to the Board of Supervisors that the garages of the Department of Public Works (DPW) and the Department of General Services (DGS) be combined. This recommendation was based on the findings of the former Grand Jury that there was duplication of equipment, facilities and supervision in the two garages. The Board of Supervisors adopted the Grand Jury recommendation and issued a directive (Appendix B) ordering the two departments be combined. The purpose of the Grand Jury's recommendation and the Board of Supervisors' directive was to reduce the costs of maintenance of county vehicles and equipment and to increase efficiency, by eliminating duplication.

On March 18, 2004, DPW and DGS created a Memorandum of Understanding (MOU) (Appendix A) with the intent of defining each department's responsibilities and how the Board of Supervisors' directive would be implemented.

METHOD

The current Grand Jury:

- Interviewed employees and managers in both departments,
- Reviewed the directive from the Board of Supervisors' ordering the maintenance departments of DPW and DGS be combined,
- Reviewed both departments' responses to the Board of Supervisors' directive, and the effect of the March 18, 2004 Memorandum of Understanding,
- Made two visits to the county fleet maintenance shops on Kansas Avenue to observe facilities and operations, and
- Reviewed claims of both departments regarding cost efficiencies and savings realized from combining the maintenance operations.

NARRATIVE

Our investigation revealed that the consolidated fleet garage on Kansas Avenue is performing satisfactorily, and we concur with the 2001-02 Grand Jury recommendation. Due to conflicting reports from each department, the extent of savings realized from the consolidation is not clear.

The directive to combine the two operations has not been fully implemented due to the MOU of March 18, 2004. Page 5, Section 4.1, of the MOU (Appendix A) states: “By the terms of this MOU, the DPW shall be under no obligation to utilize the DGS as a sole vendor of fleet services. It shall be the prerogative of DPW to utilize the vendors it feels are in the best interest of the DPW to provide fleet services.” The effect of this paragraph is to prevent the full implementation of the Board of Supervisors' directive.

This paragraph has been interpreted by the DPW to allow them to:

- keep maintenance functions under their control,
- continue to manage maintenance operations for their equipment, and
- allow their department to contract for maintenance from outside sources at additional expense after elimination of the DPW maintenance shop.

This interpretation allows the DPW to evade the intent of the Board of Supervisors' directive. Because of this paragraph, and DPW's use of it as an escape clause, the Board of Supervisors' directive has not been fully implemented and outside expenses are still incurred. The failure to implement the directive fully is clearly due to the existence of the MOU and efforts by DPW to preserve its self-interest.

The only way to fully implement the directive and realize maximum savings is to eliminate the MOU and allow the combining of the maintenance functions to be completed.

FINDINGS

Finding 1: The Memorandum of Understanding between the departments of General Services and Public Works prevents complete implementation of the Board of Supervisors' directive.

Finding 2: The Grand Jury was given conflicting reports from each department about the actual savings to the departments after they had been combined.

RECOMMENDATIONS

Recommendation 1: The Board of Supervisors should invalidate the Memorandum of Understanding. (Finding 1)

Recommendation 2: The County Auditor should conduct an operational audit of the combined maintenance operations to determine if, and to what extent, overall costs have been reduced since consolidation of the two garages. (Finding 2)

REQUIRED RESPONSES

- **The San Luis Obispo County Department of Public Works, Due 08/09/06 (Findings 1 & 2 and Recommendation 1)**
- **The San Luis Obispo County Department of General Services, Due 08/09/06 (Findings 1 & 2 and Recommendation 1)**
- **The San Luis Obispo County Auditor, Due 08/09/06 (Finding 2 and Recommendation 2)**
- **The San Luis Obispo County Board of Supervisors, Due 09/06/06 (All Findings and Recommendations)**

Appendix A

County of San Luis Obispo
Memorandum of Understanding
Between
The Department of General Services and
The Department of Public Works
For
Equipment and Vehicle Maintenance
Services

**County Of San Luis Obispo
Memorandum of Understanding
Between
The Department of General Services and
The Department of Public Works
For
Equipment and Vehicle Maintenance Services**

GENERAL SERVICES
2004 MAR -1 PM 1:21

THIS Memorandum of Understanding (MOU) is entered into by and between the County of San Luis Obispo Department of Public Works, (hereinafter referred to as "DPW"), and the County of San Luis Obispo Department of General Services (hereinafter referred to as "DOGS")

WHEREAS, the County of San Luis Obispo Grand Jury has recommended that fleet-maintenance services now provided by DPW and the DOGS be combined with DOGS acting as primary provider of services to DPW; and

WHEARAS, The DPW and the DOGS have agreed that it is in the best interest of the County to consolidate the equipment services functions,

NOW THEREFORE, be it understood that the DOGS and the DPW mutually agree as follows:

1. SCOPE OF SERVICES

1.1 DPW Daily Operator Checks

- 1.1.1 Daily operator checks of DPW equipment shall continue to be done by the DPW operator personnel.
- 1.1.2 Minor Road-yard equipment maintenance shall continue to be done by DPW operator personnel.
- 1.1.3 DOGS will notify the DPW Equipment Manager if they find evidence during service or repair that daily operator checks are not being accomplished.

1.2 Routine Fleet Equipment Maintenance Services

- 1.2.1 The DOGS shall provide Routine Fleet Preventative Maintenance Services for the DPW within the following limitations:

- 1.2.1.1 The Director of the DPW, or her/his designee, shall pre-establish and/or approve the scope of all service and repair work for DPW Equipment or vehicles.
 - 1.2.1.2 Some DPW equipment or vehicles are impractical to transport to the Operation Center or the absence of such vehicles may seriously interfere with field operations. The Director of the DPW, or her/his designee, shall inform the DOGS of such equipment or vehicles. Routine maintenance on

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these items shall be provided by DOGS at the DPW facilities, or by other means determined by DPW.

- 1.2.2 All standby, stationary emergency generators owned by the County shall be maintained on a regular basis as needed.
- 1.2.3 DOGS shall contact the operators of vehicles or equipment and the DPW Equipment Manager of such equipment, and arrange to have the vehicles serviced or repaired.

1.3 Non-Routine Fleet Maintenance

- 1.3.1 The Director of the DPW, or her/his designee, shall authorize all work to be performed on all DPW equipment, prior to any work being performed, for all work that falls outside of the parameters established herein under the provisions for Routine Fleet Equipment Maintenance.
- 1.3.2 Modifications, conversions or the addition of accessories shall be performed on DPW fleet only at the specific request of DPW. Each such modification shall be determined on a case by case basis.
- 1.3.3 It shall be understood that the nature of Public Works is such that DOGS mechanics shall be required to affect certain repairs or services either in the field or at other remote locations. DOGS shall make a reasonable effort to send mechanics to field locations at the request of field supervisors.
- 1.3.4 Emergency repairs. In the interest of public safety during storms, earth slides or other such emergency situations, it may occasionally be necessary to have a mechanic standby or work on equipment during off work hours. The DOGS shall be expected to provide such service and make mechanics available. The DOGS will provide to DPW regular updates of their Department Emergency Call Out
- 1.3.5 All related cost of standby or emergency call out will be incurred by D.P.W.

1.4 90 day Statutory inspections

- 1.4.1 Required Ninety-day "regulated vehicle" inspections shall be done by the DOGS at the request of Director of the DPW, or her/his designee. Every effort shall be made to ensure such inspection intervals are not exceeded. Inspections of field equipment shall be done at the location where the equipment is normally assigned.
- 1.4.2 Required Ninety-day OSHA crane and aerial device inspections are to be performed by DOGS as part of the scheduled equipment PM program.
- 1.4.3 The Director of the DPW, or her/his designee, retains the right at her/his sole discretion, to utilize non-DOGS maintenance facilities and/or personnel to provide this service.

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1.5 Annual Statutory Inspections

- 1.5.1 The tracking and coordination of required, annual OSHA crane and aerial device inspections for DPW equipment, by outside State certified inspectors, and Biennial CHP inspections of "Regulated vehicles," shall be solely the responsibility of the DPW.
- 1.5.2 Annual "Heavy-Duty Diesel Smoke Emission Tests" as required by the California Air Resources Board and Biennial California Bureau of Automotive Repair "Vehicle Smog Check" tests shall be performed by DOGS as part of routine service.

1.6 Road Service

- 1.6.1 The DOGS shall provide road service for the DPW fleet.
- 1.6.2 The Director of the DPW, or her/his designee, retains the right at her/his sole discretion, to utilize non-DOGS services or facilities to provide this service.

2. GENERAL PROVISION

2.1. Equipment Ownership

- 2.1.1. Except for the transfer provisions specifically listed below, the DPW shall retain ownership of all present and future owned equipment. The DPW shall retain responsibility for funding the purchases of additional and replacement equipment.
- 2.1.2. All transfers of equipment shall be by mutual written agreement between the DPW and the DOGS. Said agreement to be executed prior to any transfers being completed.
- 2.1.3. The DPW shall determine the life cycle of all equipment owned by the DPW. The DPW shall determine when equipment or vehicles are to be replaced, what they are to be replaced with, when they are disposed of, what additional equipment is needed, or what vehicles or equipment are to be sold and not replaced.

2.2. Transfer of Personnel

- 2.2.1. The positions listed on "Exhibit A", attached hereto as if fully set forth herein, presently shown on the position allocation list (PAL) of DPW, shall be transferred to the DOGS PAL. It shall be the responsibility of DOGS to take the necessary actions to initiate this transfer after such time as both parties have agreed on the terms of this MOU.

2.3. Transfer of Equipment and Facilities

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- 2.3.1. The equipment and facilities listed on "Exhibit B", attached hereto as if fully set forth herein, presently shown on the Fixed Asset Subsidiary Ledger of the DPW Internal Service Fund (BU 2900) shall be transferred to the DOGS Garage Internal Service Fund (BU 2300). Along with the accumulated depreciation collected to date on each item. Subsequent to the transfer it will be the responsibility of DOGS to replace the items as they deem necessary.

2.4. Transfer of Inventory

- 2.4.1. The Inventory items listed on "Exhibit C", attached hereto as if fully set forth herein, presently shown on the Materials subsidiary ledger of the DPW Internal Service Fund (BU 2900) shall be transferred to the DOGS Garage Internal Service Fund (BU 2300) at a dollar value based on the average cost of the inventory at the time the transfer is made. Said sum to be paid by DOGS to the DPW prior to completion of physical transfer.
- 2.4.2. The inventory items listed on said "Exhibit C" shall be physically maintained in the warehouse that now contains the DPW tires.
- 2.4.3. The DOGS shall be responsible for replenishing said inventory in the future and/or providing alternative methods of obtaining items necessary to complete the services they shall provide.

2.5. Access to Facilities

- 2.5.1. The Director of the DPW, or her/his designee, shall be allowed access to all areas within DOGS in a manner that provides the ability to fully observe the services provided by DOGS.
- 2.5.2. The Director of the DPW, or her/his designee, shall have computer access rights to browse all information maintained on D.P.W. equipment only, that is serviced by DOGS.
- 2.5.3. The Director of the DOGS, or her/his designee, shall control the warehouse facility that presently houses the DPW tires. The DPW shall not have access to this area without permission of the DOGS.
- 2.5.4. Other than access stipulated within the provisions of this agreement, the DOGS shall not have access to other areas presently under the control of the DPW Supervising Storekeeper. (A map of these areas is attached)

3. COMPENSATION.

- 3.1. The DPW shall pay to DOGS as compensation for all services performed pursuant to this agreement, the cost of performing the service on a time and materials basis
- 3.2. Billing for services rendered is to be submitted to the DPW on a monthly basis with a detailed explanation of labor and material costs by unit number.

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3.3. The DPW shall reimburse DOGS for any direct expenses incurred in connection with the repair or maintenance of the DPW fleet. Direct expenses include, but are not limited to the following:

- Travel Expenses (automobile/lodging/meals)
- Professional Consultants
- County/City Fees
- Specialized training for DPW equipment

4. USE OF OTHER VENDORS

4.1. By the terms of this MOU, the DPW shall be under no obligation to utilize the DOGS as a sole vendor of fleet services. It shall be the prerogative of DPW to utilize the vendors it feels are in the best interest of the DPW to provide fleet services.

4.2. The DPW shall provide to DOGS a record of outside repairs or services performed to be kept in the vehicle permanent record file.

5. LICENSE

5.1. The DOGS shall require that mechanics assigned to repair regulated vehicles maintain a California CDL and meet all requirements for repair and service of regulated vehicles.

6. COVENANT

6.1. This Memorandum of Understanding has been entered into in good faith between the DPW and the DOGS of the County of San Luis Obispo. All duties and obligations of the parties created hereunder are performable in San Luis Obispo County, and each Department agrees to act under the terms of this MOU in the best interest of the County.

7. DISPUTE RESOLUTION

7.1. Every effort should be made to abide by the memorandum of understanding by all parties. The principal parties should try to work things out between themselves first, before resorting to the following process. However;

7.2. Should disputes arise, the following process shall be followed:

7.2.1. The DPW Equipment Manager and the DOGS Fleet Shop Supervisor shall first seek to resolve any disputes between themselves. If this fails, then

7.2.2. The PW Road Maintenance Superintendent shall work with the DOGS Fleet Manager to resolve the dispute. If they reach agreement, their mutual decision shall be considered final. If they cannot reach agreement, then

7.2.3. The DPW Deputy Director – Engineering Services shall work with the Deputy Director of DOGS to resolve the dispute. If they reach agreement, their mutual decision shall be considered final. If they cannot reach agreement, then

7.2.4. The Director of the DPW and the Director of the DOGS shall work together to resolve the dispute. If they reach agreement, their mutual decision shall be considered final. If they cannot reach agreement, then

7.2.5. The County Administrative Officer shall make a final determination of a resolution to the dispute.

8. RECORDS AND REPORTS

8.1. The DOGS shall provide to the DPW, on a regular monthly basis, reports that must at least include, but is not limited to, a description of each item of equipment or vehicle that was serviced, a detailed description of the service performed, a reading of the mileage or hours shown on the equipment or vehicle meter at which the service was provided, itemized cost breakdowns showing labor and materials costs associated with the service provided.

8.2. DPW will provide to DOGS records of any service, repair, alteration, and inspection work performed on DPW equipment and vehicles by others.

9. TRANSPORTATION OF EQUIPMENT

9.1. It shall be the responsibility of the DPW to provide physical transportation of heavy equipment or vehicles, to and from the DOGS repair facility which requires work to be performed at that facility. Light duty trucks, (less than 26,000 GVW), or sedans may be transported or shuttled by DOGS employees as needed to facilitate the return of vehicles to field locations.

10. WARRANTY

10.1. All repairs or preventative maintenance services performed by DOGS for DPW shall carry a reasonable, industry-standard warranty.

10.2. DOGS shall warrant that preventative maintenance services are performed according to the preventative maintenance guidelines of the DPW

10.3. Repairs and fabrications performed on DPW vehicles shall be warranted for a period of 30 days. Failure of such repairs, due to poor workmanship or neglect during the warranty period shall result in the work being performed by DOGS without charge.


10.4. It shall be the responsibility of DOGS to track component warranties and to seek reimbursement for the failure of any component covered by a vendor warranty.

10.5. The DPW shall assume responsibility for overseeing manufacturers factory recalls or dealer warranty work to be performed by the original equipment dealers of the vehicles or equipment.

IN WITNESS WHEREOF, The Department of General Services and Public Works and Transportation have executed this Memorandum of Understanding on the day and year set forth below.

DEPARTMENT OF GENERAL SERVICES

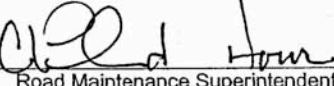
By:  3/18/04
Deputy Director of General Services Date

By:  3-18-04
Fleet Manager Date

By:  3-18-04
Fleet Shop Supervisor Date

DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

By:  2/24/04
Deputy Director of Public Works - Engineering Services Date

By:  25 Feb. 2004
Road Maintenance Superintendent Date


By:  2/29/2004
Equipment Manager Date

EXHIBIT A
POSTION ALLOCATION TRANSFERS

The following Four (4) positions shall be transferred from the DPW to the DOGS:

Three (3) - Equipment Mechanic II

Art Ludwick
Marc Mohler
David Pelliteri

One (1) - Equipment Service Worker

Vacant

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**EXHIBIT B
SCHEDULE OF
EQUIPMENT TRANSFER**

Item	Number	Description	Purchase Date	cost	A/D	B/V
1	30-0178	1992 GMC 3500, One Ton Mechanics Service Truck	07/21/1992	18,074	17,171	903
2	30-0239	1994 Chev 3500, One Ton Mechanics Service Truck	07/31/1994	17,016	13,337	3,679
3		Hobart 10,000, 250 amp gas-powered welder	10/01/2001	1,700	680	1,020
4		Hobart 10,000, 250 amp gas-powered welder	10/01/2001	1,700	680	1,020
5		Miller, Syncrowave 180 SD, TIG Welder	06/02/2002	1,600	200	1,400
6		AMMCO, 15,000lb, tow-post floor hoist	09/21/2000	9,214	1,843	7,371
7		Wagner, 5200, Diesel Smoke Opacity Meter	06/01/1997	4,000	3,500	500
8		Snap-on, MT2300, Diagnostic Engine Scanner	10/01/1996	2,300	2,070	230
				55,604	39,481	16,123

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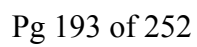
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EXHIBIT C
SCHEDULE OF
TRANSFER OF INVENTORY

A complete listing and value of vehicle, equipment parts and tires will be provided based on the actual items in stock on February 22, 2003 -- the effective date of the merger.

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Appendix B

County of San Luis Obispo Board of Supervisors Resolution

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT General Services		(2) MEETING DATE February 25, 2003		(3) CONTACT/PHONE Duane P. Leib (805) 781-5200	
(4) SUBJECT Response to the 2001-02 Grand Jury Report of June 2002 Recommending the Consolidation of the Public Works and General Services Garages.					
(5) SUMMARY OF REQUEST The 2001-2002 Grand Jury Final Report included a review of the County vehicle maintenance program. The report recommended that the garage operations of the Department of Public Works be consolidated under the management of the Department of General Services.					
(6) RECOMMENDED ACTION Approve the consolidation of the General Services and Public Works Garage operations which will be under General Services management effective March 9, 2003 and the Resolution amending the position allocation list for fiscal year 2002-03.					
(7) FUNDING SOURCE(S)		(8) CURRENT YEAR COST		(9) ANNUAL COST Savings \$72,600	
				(10) BUDGETED? <input type="checkbox"/> YES <input type="checkbox"/> N/A <input type="checkbox"/> NO	
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): General Services, Public Works, Administrative Office, Personnel Office					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____					
(13) SUPERVISOR DISTRICT(S) 1st, 2nd, 3rd, 4th, 5th, All			(14) LOCATION MAP <input type="checkbox"/> Attached <input type="checkbox"/> N/A		
(15) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)			(16) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input type="checkbox"/> N/A		
(17) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input type="checkbox"/> N/A			(18) BUDGET ADJUSTMENT REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input type="checkbox"/> N/A		

(19) ADMINISTRATIVE OFFICE REVIEW



COUNTY OF SAN LUIS OBISPO

Department of general services

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5200
DUANE P. LEIB, DIRECTOR

TO: BOARD OF SUPERVISORS

FROM: DUANE P. LEIB, GENERAL SERVICES DIRECTOR *D. Leib*
NOEL KING, PUBLIC WORKS DIRECTOR *NK*

DATE: FEBRUARY 25, 2003

SUBJECT: RESPONSE TO THE 2001-02 GRAND JURY REPORT OF JUNE 2002
RECOMMENDING THE CONSOLIDATION OF DEPARTMENTS OF
GENERAL SERVICES AND THE PUBLIC WORKS, AND APPROVE THE
RESOLUTION AMENDING THE POSITION ALLOCATION LISTS FOR
BOTH DEPARTMENTS

RECOMMENDATION

It is recommended that your Board:

1. Approve the concept of consolidating the General Services and the Public Works Garage operations which will be under General Services management, effective March 9, 2003.
2. Authorize the transfer of ownership of the various shop equipment items listed on Attachment A from the Public Works Internal Service Fund to the General Services Department, and also authorize the transfer from Public Works to General Services the amount of \$39,481 in accumulated depreciation funds that have been collected by Public Works for the future replacement of this equipment.
3. Authorize the payment from General Services to Public Works for the actual value of the equipment parts and tires on hand on February 23, 2003, that will be transferred from Public Works materials inventory to General Services (estimated at \$15,000 - \$20,000).
4. Approve the attached resolution changing the Position Allocation Lists (PAL) for both departments.

DISCUSSION

The 2001-2002 Grand Jury Final Report included a review of the County vehicle maintenance program. The report recommended that the garage operations of the Department of Public Works be consolidated under the management of the Department of General Services. The responses to your Board from both departments include a commitment to investigate that possibility and report back to your Board by December 2002. The Departments of General Services and Public Works have had on going discussions and have developed a plan to consolidate the garage operations under General Services. That operating plan is documented in an operational Memorandum of Understanding between the two departments.

This consolidation will place maintenance responsibility for all county vehicles and other heavy motor pool equipment currently maintained by Public Works under the Department of General Services. Four Public Works positions (three Equipment Mechanics I/II and one Equipment Service Worker) will transfer into the Department of General Services, initially with the same job titles, while their classifications are studied by the Personnel Department. Any differences in title, pay, uniform allowances and tool allowances between these four positions and the existing General Services Shop positions will be addressed during the following year involving the Personnel Department, the County Administrative Office, affected employees and their respective employee associations.

The Department of Public Works will still own its equipment, and Public Works will essentially be contracting the General Services for the maintenance service. It is anticipated that the majority of the construction equipment repairs, as well as most major repairs to the sedans and pickup trucks, will be outsourced to private shops, and the routine servicing and minor repairs will be done in the General Services shop.

The consolidation will eliminate two Public Works Department positions:

- One vacant Public Works Equipment Service Worker position at an annual savings of \$49,710 in salary and benefits will be eliminated effective March 9, 2003.
- One Storekeeper I position, at an additional annual savings of \$46,416 in salary and benefits will be eliminated effective April 6, 2003.

This potential total annual savings of \$96,126 will also be enhanced by efficiency savings in the garage operations, eliminating duplicate management, inventory and accounting practices and allowing maximum flexibility of mechanics for better time management.

It is anticipated the current classification of General Services Garage Manager will likely be reclassified to Fleet Manager and the current position of General Services Supervising Automotive Mechanic will be reclassified to Fleet Shop Supervisor. Modifications reflecting the shift of positions between the two departments, as well as any title and salary changes, will be brought to your Board for consideration in the next few weeks. The corresponding salary levels will be determined by other County comparisons for similar positions as well as the current County Management Study. However, it is estimated that the new Fleet Manager's salary at Step 5 will be ~\$16,200 (including benefits) higher than the current General Services Garage Manager salary and the new Fleet Shop Supervisor's salary at Step 5 will be ~\$4,248 (including benefits) higher than the current General Services Supervising Automotive Mechanic.

In addition, the Equipment Manager position in Public Works will undergo a classification review given the change in duties and elimination of supervision responsibility

Advantages:

- All garage operations will be consolidated under one central administration, thereby eliminating potential duplication of services, equipment and other resources.
- All purchasing will be handled under one system within the Department of General Services.
- All county vehicles will have their costs tracked under one central computer system increasing data collection, cost analysis and fleet management efficiency.
- The cost to maintain and repair the Public Works fleet is expected to be reduced through operating efficiencies.
- Line supervision of Shop mechanics and Service Workers will be available, on site, at all times.
- Employee management will be consistent and coordinated to eliminate inequities in job classifications, tool allowances and uniform allowances.

OTHER AGENCY INVOLVEMENT

The Department of Public Works, the County Administrative Office, and the Personnel Office have been involved with this recommendation course of action. Public Works staff will have frequent input into various repair decisions, as outlined in the interdepartmental Memorandum of Understanding.

FINANCIAL CONSIDERATIONS

The proposed consolidation will initially result in approximately \$96,126 per year in staffing savings due to the elimination of one Equipment Services Worker position and one Storekeeper 1 position. This savings will be offset by the Fleet Manager's estimated annual salary increase of \$16,200 and the Fleet Shop Supervisor's estimated annual salary increase of \$4,248. The net savings in salaries is anticipated to be ~\$75,679. See Attachment "B" for more detail.

Additional savings will also be realized through more efficient use of staff resources.

RESULTS

The garage operations for the county will be united under one management resulting in anticipated increased efficiency and annual long term cost savings of at least \$75,679 facilitating your Board's desired community-wide result of a well governed community.

Attachment

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IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 2003

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION AMENDING THE POSITION ALLOCATION LIST
RESOLUTION FOR FISCAL YEAR 2002-03

The following resolution is hereby offered and read:

WHEREAS, Chapter 2.48, Section 160 of the San Luis Obispo County Code provides that the number of positions and the classifications of said positions allowed within each department shall be established by resolution of the Board of Supervisors; and

WHEREAS, the Board of Supervisors has allowed certain positions through adoption of the County budget for Fiscal Year 2002-03; and

WHEREAS, the position being allocated by this resolution has been reviewed by the Personnel Department and is consistent with job specifications and classifications as provided by the Civil Service Commission, and

WHEREAS, the County Administrator has met with the Personnel Department staff and concurs with the recommended changes.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, the position allocation for Budget Unit 2900, Public Works, and Budget Unit 2300, Garage ISF be amended as follows:

2900 – PUBLIC WORKS

<u>Job</u>	<u>Class Title</u>	<u>From</u>	<u>To</u>	<u>Effective Date</u>
01121	Equipment Mechanic I			
01120	or Equipment Mechanic II	3.00	0.00	03/09/03
01123	Equipment Service Worker	2.00	0.00	03/09/03
01336	Storekeeper I	1.00	0.00	04/06/03

2300 – GARAGE ISF

<u>Job</u>	<u>Class Title</u>	<u>From</u>	<u>To</u>	
01121	Equipment Mechanic I			
01120	or Equipment Mechanic II	0.00	3.00	03/09/03
01123	Equipment Service Worker	0.00	1.00	03/09/03

Upon motion of Supervisor _____, seconded by Supervisor _____,

and on the following roll call vote, to-wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

The foregoing resolution is hereby adopted:

Chairman of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

BY: _____ Deputy Clerk

February 25, 2003

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TRANSFER OF DEVELOPMENT CREDITS

People have been moving to San Luis Obispo County (SLO) for the benefits offered by its natural and cultural landscape. Others, some of pioneer stock, have remained here for generations for the same reasons. We reside in a rural county continually faced with the dilemma of the agricultural/urban interface.

In the late 1980s, SLO County had the foresight to explore the “Rural Settlement Strategy.” In 1996, the county adopted a resolution whose primary goals were to retain existing agricultural lands and encourage development in urban areas. This program became known as the San Luis Obispo County Transfer of Development Credit Program (TDC).

ORIGIN

The Grand Jury recognizes the county’s efforts to retain agricultural land and protect the natural landscape. One of those efforts, TDC, has been the subject of increasing controversy. The Grand Jury initiated a study to explore the successes and/or failures of this program.

METHOD

The Grand Jury took the following steps in conducting this inquiry:

- Interviewed San Luis Obispo County Planning and Building Department staff,
- Interviewed community development staff from cities within San Luis Obispo County,
- Interviewed a ‘sender site’ owner,
- Interviewed concerned county citizens and groups,
- Reviewed the history of the Transfer of Development Credit Program in San Luis Obispo County,
- Reviewed the 2000-01 San Luis Obispo County Grand Jury Report on the Transfer of Development Credit Program,
- Reviewed the current TDC program, and
- Attended recent Board of Supervisors meetings when TDCs were discussed.

BACKGROUND

Land use management and its impact on San Luis Obispo County development is a controversial issue in local government today. First-rate land use practices, supported by local governance and citizen backing, are necessary. Without this essential support, urban and suburban development spreads in a manner that negatively impacts the county's prime business – agriculture - as well as the population's quality of life.

In 1996 an effort was made to avoid continued loss of irreplaceable agricultural land to urban and suburban development. The county implemented a TDC program modeled after Transfer of Development Rights (TDR) programs, commonly employed throughout the United States, to protect agricultural land from urban sprawl and to concentrate development in public service-rich urban areas.

How TDC Works

Purpose — The TDC program was designed to:

- 1) locate development away from environmentally sensitive land and land with agricultural capability, to more suitable urban areas where services are readily available and
- 2) retire antiquated subdivisions, thereby reducing potential development on properties with no legal requirement to adhere to California state environmental regulations or county land use ordinances.

Mechanism — The TDC program is a market-driven voluntary land-use planning tool that transfers a landowner's right to develop from one potential development site (sender site) to another (receiver site). Rural and agricultural sites, which possess development potential, may sell or transfer development rights (credits) to suitable urban sites. Transfer of these credits reduces the development possible on the sender site and increases the development potential on the receiver site. Sender sites create the opportunity for increased density at receiver sites beyond the provisions of the General Plan.

A 7,200 acre ranch in North SLO County was the first to be piloted as a TDC sender site and the largest sender site as well. When the program was initiated, additional credits, known as bonus

credits, were assigned. These were incentives given to the sender site to “jump start” the process. This complicated the controversial method for assigning credits.

Critics recommend a 1:1 transfer ratio—one lot created for one lot protected. This recommendation, however, is more difficult to adopt and accept. Others say there must be a significant incentive for landowners to become sender sites. The price a receiver site would pay a sender for a credit is negotiable and could fluctuate with land prices. However, since developers can locate projects within the urban reserve line or seek an amendment to the General Plan, there is little, if any, incentive to pay for development credits.

Incentives — There is the question of incentives for senders and receivers. The bonus credits granted to the largest sender site in the program may be many, but their value is dependent on their sale. The owners of the greatest number of TDCs for sale, and with the most to gain, state that the program is not working. In their opinion, the incentives are not sufficient for a developer to apply as a receiver site. TDC owners are aware that developers may achieve their goals through development within the urban reserve line or General Plan Amendments without the need for TDCs.

The SLO County Department of Planning and Building has been left with the responsibility of justifying the TDC program. The department reports three approved sender sites and continues to claim success in the preservation of 5463.95 acres of agricultural land in the outlying rural areas of the county. Over 5000 acres, however, are contained on one sender site. Potential sender sites are not stepping up. Why? No incentives.

Conservation Easement — An integral requirement for establishing a sender site is the development of a conservation easement that forbids urban development and severely limits other forms of development on the site. When dealing with TDC issues, the term ‘conservation easement’ translates into restricting development and not necessarily protecting wildlife habitat, woodlands, watershed, etc. Since the sender site is typically agricultural in nature, the conservation easement protects (conserves) agricultural activities. Requirements for each

conservation easement are negotiated on a case-by-case basis between the landowner and a land conservancy.

TDC Approaches — The county's TDC program may be separated into two working approaches: 1) county-wide based and 2) community-based. The county-wide approach uniformly applies TDC requirements to all of the unincorporated land in the County. The community-based approach allows customized TDC adaptations to be tailored to the individual needs of each community.

Agency and Public Concerns — On March 10, 2005, the SLO County Department of Planning and Building conducted a study session on the TDC Program for the Planning Commission. Additional meetings were held and as a result, the Planning Commission drafted a letter dated May 12, 2005, outlining the Commission's concerns.

This letter stated the TDC program is not meeting its land use objective to relocate development from environmentally sensitive land, land with agricultural capability or antiquated subdivisions to more suitable lands. It further stated the following goals were not accomplished:

- 1) retiring lots,
- 2) providing a financial incentive to owners of antiquated lots, and
- 3) protecting family farms, large eco-systems and urban green belts.

As a result, the Planning Commission recommended the countywide TDC program be discontinued except for community-based programs, established TDC sites and those that have been, or may be, established as part of a General Plan update.

The SLO County Department of Planning and Building presented their response to the Planning Commission's issues as well as the annual report on the TDC Program to the Board of Supervisors on October 4, 2005 (Exhibit 1). The Board of Supervisors directed planning department staff to return on November 22, 2005, for further discussion of the program and for direction from the Board. During the period leading up to this date, the Templeton Area Advisory Group, the Nipomo Community Advisory Group, the Santa Margarita Area Advisory

Council, and the Shandon Area Advisory Committee, wrote letters to the Board recommending that the TDC program be discontinued.

On November 22, 2005, the Board of Supervisors hosted a three-hour public hearing in which 23 people spoke against, while four supported it. The majority requested either a moratorium or elimination of the program. Supporters were in a position to gain financially. The consensus of the audience, the advisory groups, County Department of Agriculture and the Planning Commission was that the program was not working as intended.

Despite the arguments, recommendations and pleas presented to the Board of Supervisors, it voted to redesign the program. The Board agreed to form the *TDC Blue Ribbon Committee*, a broad-based community group, with the following membership:

- two members from Agriculture (possibly one from the Farm Bureau and one active agriculturalist),
- two members from environmental groups (ECOSLO, Sierra Club or similar organizations),
- two members from development (one representing a receiver site and one from a development firm in the county),
- one member from the Land Conservancy of San Luis Obispo County,
- three members from Boards and Commissions (one from the Ag Liaison Board and two from the Subdivision Review Board),
- two members from the general public,
- two members representing the Advisory Groups, and
- one member from a city planning department.

All meetings would be open to the public as the members participate in discussions with county staff. The Board of Supervisors also agreed to eliminate agriculturally zoned lands as receivers of transfer credits.

The TDC program has been controversial from the outset and continues to be fueled by misunderstanding and public perception. It may be less intimidating to land use professionals and attorneys in the field; but to the public, it is daunting. The 2000-01 SLO County Grand Jury

received a complaint regarding the implementation of the TDC Program and responded with *Findings and Recommendations*. (For responses from the SLO County Planning and Building Department, Board of Supervisors and County Administrative Officer, please see Bibliography #9.)

FINDINGS

Finding 1: The goal of the TDC program is to relocate potential development away from agricultural and environmentally sensitive land and to retire antiquated subdivisions. The relocation is to be close to urban areas where public services would be readily available.

Finding 2: The TDC program is essentially market-driven. However, developers can find suitable land for development within the urban reserve line or by requesting an amendment to the county's General Plan without having to purchase development credits from a sender site. Until most land within the urban reserve line is developed, there is little or no incentive to purchase credits.

Finding 3: SLO County land is essentially zoned into three categories: urban, agricultural or rural. Land may be zoned agricultural regardless of its actual agricultural value or the Soil Conservation Service land capability grouping. (See Bibliography #1, 4 & 5)

Finding 4: SLO County is covered with antiquated subdivisions that can be developed with less compliance to prevailing county environmental regulations and development standards. Most of the antiquated subdivisions are located on agricultural land.

Finding 5: A ranch in the northern portion of San Luis Obispo County was the pilot TDC sender site with over 5,000 acres preserved. Even though other properties qualified as sender sites, for all practical purposes this ranch remains the most significant sender site.

Finding 6: In a May 27, 2004 memorandum to the county Principal Planner, the SLO County Agricultural Commissioner recommended that all land within the Agriculture Land Use category not be eligible as TDC receiver sites

Finding 7: Using input from citizens and area advisory groups, the SLO County Planning Commission developed a set of specific recommendations, the strongest of which was to

discontinue use of the TDC program, except for the community based programs and TDC sites that have been, or may be, established as part of the General Plan update.

Finding 8: In response to the Planning Commission's recommendations, the SLO County Department of Planning and Building proposed:

- County staff reevaluate the method used to determine the number of sender credits,
- County staff reevaluate the allowed uses in the conservation easements and the requirements for conservation easement management,
- the Board of Supervisors amend the current policy of allowing receiver sites in agricultural areas to disallow agricultural land being considered as a receiver site and,
- County staff prepare amendments to the TDC program to encourage growth in urban areas where existing public services can effectively serve the additional density.

Finding 9: The Board of Supervisors agreed to form the *TDC Blue Ribbon Committee*, a broad-based committee, to review the TDC program.

RECOMMENDATIONS

Recommendation 1: The TDC program should continue, providing the recommendations in this report are implemented. (Finding 1)

Recommendation 2: The Board of Supervisors should develop an incentive program to attract both sender and receiver sites. (Finding 2)

Recommendation 3: Sender sites should not receive TDCs for land that has no agricultural value. (Findings 1 & 3)

Recommendation 4: Receiver sites should be located in proximity to available public services. (Findings 1 & 8)

REQUIRED RESPONSES

- **The San Luis Obispo County Department of Planning and Building, Due 08/11/06 (All Findings and Recommendations)**

- **The San Luis Obispo County Board of Supervisors, Due 09/12/06 (All Findings and Recommendations)**

SUMMARY

San Luis Obispo County is a predominantly agricultural county. With San Francisco to the north and Los Angeles to the south of us, the pressure to create urban and suburban developments in our county is enormous and increasing. In an effort to avoid continued loss of irreplaceable agricultural land to urban and suburban development, the county implemented a Transfer of Development Credits program. Similar programs in other states have been successful in preserving agricultural land.

The TDC program as implemented in this county has been perceived by a variety of citizen groups as unsuccessful. These groups, along with the Planning Commission and the County Agriculture Department, have all recommended substantive changes in the program as it currently operates. The Grand Jury's research revealed that program has not had the success achieved elsewhere. We urge the County to modify the program to enable realization of the program's goals.

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GRAND JURY INSPECTION OF THE CALIFORNIA MEN'S COLONY

The San Luis Obispo County Grand Jury's duties include mandatory inspection of all prisons in the County. Eight members of the Jury visited the California Men's Colony located north of San Luis Obispo on Highway One. The Jury visit included the East Facility on September 20th and the West Facility on September 23, 2005.

METHOD

The purpose of the visits was to fulfill the jury's mandate and receive information regarding programs at the prison. The jury members spent one and a half days touring the East and West Facilities meeting with the administrative staffs of both units and learning about the programs offered.

NARRATIVE

THE EAST FACILITY - Approximately 3800 inmates are housed in four three-story buildings referred to as "quads." Other buildings include a psychiatric service facility, a medical/dental hospital and a building for educational services. The prison also has a large chapel with services for Protestant, Catholic, Jewish, Native American and Muslim religions. Many other groups also use the chapel. The jury viewed the knitting and finishing mill, fabric production, shoe factory and printing plant. Approximately 900 inmates work in these factories during the day. The vocational and educational classrooms were visited while in session and appeared to be well equipped with computers and other aids. There were 236 inmates on a waiting list to enter classes because there is a shortage of instructors and building space for these programs. All inmates are tested for grade level achievement when first entering the prison; many function at fourth grade skill levels. Food services in the prison employ many of the inmates. Meals for all quads are prepared in a central kitchen.

THE EAST FACILITY'S PSYCHIATRIC AND MENTAL HEALTH UNITS - The East Facility of CMC includes a psychiatric treatment and evaluation unit. The inmates housed at this unit are determined by the Department of Corrections to be in need of treatment due to their behavior or by psychiatric diagnoses. There is a new Mental Health building, built with the help of inmate labor, where the psychiatrists, psychologists, and other mental health therapists treat

inmates. All of the inmates in this unit are on medications because of their mental health needs. In addition to individual and group therapy, psychological testing and crisis intervention therapies are provided. During the time of the visit to CMC psychiatric unit, many of the inmates were outside participating in various activities.

THE WEST FACILITY - The West Facility of CMC is located on 138 acres; it lies on a hill adjacent to the East Facility complex. The prison is comprised of 32 dorms arranged in four units. The buildings are World War II wooden army barracks with 50 double-decker bunks to a dorm. The dorms were designed to hold about 1400 inmates, but were filled with nearly 2900 prisoners at the time of the visit. Each unit housed some 90 inmates with double bunks spaced three feet apart. There were no scheduled hours for sleeping. Each bunk has individual lockers. Every dorm has a television room with programs controlled by the institution. The units appeared clean despite laundry drying inside the buildings. There is a grassy area around each building for exercising. The inmates are locked in at night with guards posted at both ends of the units.

MEETING WITH STAFF OF BOTH EAST AND WEST FACILITIES: The Grand Jury met with staff members of both East and West facilities to address the following issues:

- **EVACUATION PLANS:** Written emergency plans are in place, and includes putting the prison in “lockdown” mode and securing the perimeter fence.
- **STAFFING:** A number of long time correctional officers are nearing retirement and replacements are difficult to recruit. This shortage has caused some retirees to be called to come back to work, covering shifts not staffed by regular officers. Due to State regulations, newly graduated nurse cannot be hired unless they have had a year of professional work experience. This has made it difficult to fill vacancies.
- **EARTHQUAKE PREPAREDNESS:** Many parts of the facility are now being retrofitted to meet earthquake safety standards.

- **HANDLING OF ILLEGAL IMMIGRATION:** Approximately 320 undocumented immigrants are being housed in the prison awaiting transport by the Immigration and Naturalization Service (INS). Some are housed as long as three weeks before transport. This has put an additional burden on the CMC staff and facilities.
- **FEEDING INMATES:** The budget calls for an expenditure of \$2.51 a day to feed each inmate. A request for an increased budget for the prison has been turned down by the California State Legislature.
- **CONDITION OF WEST FACILITY BUILDINGS** – There have been plans in place for many years to raze the current World War II buildings. Plans have been approved, but due to the state budget constraints in the past few years, the plans were put aside. A great deal of work and expense must be directed in maintaining these 50-year old structures.
- **STAFFING THE WEST FACILITY** – The West Facility is having the same problems as the East Facility with regard to staffing.

CONCLUSION

As the California Men's Colony is a state-run institution, the County Grand Jury cannot require responses from the State of California, however, it is mandated that the Jury point out existing needs and bring these needs to the attention of the general public, CMC, and the State Legislators. Staffing shortages of both Correction Officers and Nursing staff in both East and West facilities need to be addressed.

CHANGES SINCE THE GRAND JURY'S VISIT - Since the time of the Grand Jury visit (2005), some changes have occurred. In the case of the shortage of nurses, the State has authorized an 18% salary increase. This has helped in recruitment, but has not solved the problem of hiring newly graduated nurses. The Correction Officer Training Academy has been reactivated and a second academy has been added to train needed personnel. The Grand Jury was impressed by the professional staff of both East and West Facilities of CMC. The staff should be commended for handling a difficult job.

FINDINGS

Finding 1: Staff and buildings of the CMC Education Department are inadequate to meet the needs of the inmate population.

Finding 2: The West Facility Buildings are overcrowded. The cost of maintaining the World War II buildings is costly.

RECOMMENDATIONS

Recommendation 1: Closed circuit television and distance learning should be incorporated into the educational process. Although this would not take the place of new staff and buildings, it would be a more efficient use of existing space. With the augmentation of classroom technology, those inmates on the waiting list could be accommodated. (Finding 1)

Recommendation 2: As a result of the Grand Jury's interviews with CMC Superintendents, the Jury was informed that the State has plans to renovate and expand the West Facility. The Grand Jury encourages the implementation of these plans. (Finding 2)

REQUIRED RESPONSES

- **The California Men's Colony: Due 08/30/06 (All Findings and Recommendations)**
- **The California Department of Corrections and Rehabilitation: Due 09/30/06 (All Findings and Recommendations)**

SAN LUIS OBISPO COUNTY JAIL AND HONOR FARM

The San Luis Obispo County Jail is located off Highway 1 and Kansas Ave. in the county services complex. The honor farm is on the same property a short distance south of the jail. The jail is under the supervision of the San Luis Obispo County Sheriff's Department and houses sentenced inmates convicted of misdemeanors and felonies, unsentenced inmates awaiting trial, and others who have been convicted of felonies and are awaiting transfer to a state prison facility.

ORIGIN

The Grand Jury is mandated to inspect the jails and prisons within the county.

METHOD

Members of the Grand Jury toured the jail on October 17, 2005, and the honor farm on November 15, 2005. We were given ample opportunity to ask questions of the Sheriff's personnel, and were provided with various forms, fact sheets, and other statistical data about the facility.

NARRATIVE

Two correctional lieutenants, well versed in the day-to-day operations of the jail, conducted our tour on October 17, 2005. We toured a new wing in the men's jail, which contained state-of-the-art monitoring equipment. An older section consisting of cells housing four to six prisoners each was full at the time of our visit. Exercise areas were spacious and well cared for.

In the women's section we observed sack lunches being served. We also saw several mattresses on the floor where some inmates are assigned to sleep because of the lack of bedspace.

The jail is inspected biennially by the Correctional Standards Authority (CSA), an organization formerly called the State Board of Corrections. The CSA also rates the jail's capacity according to factors such as square footage, number of sinks, showers, and toilets available, and other criteria.

The rated capacity of the men's jail, according to the CSA, is 412 for the jail proper and 63 for the honor farm. The actual capacities (number of beds in place) are 451 and 80, respectively. There are also barracks for men serving weekend sentences which contain an additional 80 beds.

The CSA rated capacity for the women's jail is 43, and the actual capacity (number of beds in place) is 76. The average daily population in 2005 was 81.

When the population of either the men's or women's jail exceeds the actual capacity, inmates sleep on mattresses placed on the floor. Consistent overcrowding has made floor-sleeping an every-day occurrence at both facilities.

Overcrowding continues to be particularly acute in the women's section of the jail. Past grand juries have noted this problem, most recently the 2004-2005 Grand Jury which included in its recommendations new construction to expand the women's section. But progress has been inordinately slow. Funds for design work were allocated in the 1999-2000 county budget, and several architectural firms are being considered for the final design of the project. However, no funds have been budgeted for actual construction.

Our tour of the honor farm took place on November 15, 2005 when we were accompanied by a correctional sergeant who oversees the daily activities of inmates housed there. Inmates selected for the honor farm are considered low-risk for both violent behavior and escape tendencies.

Food for the total jail population is prepared at the honor farm by inmates under the supervision of professional food service employees. It should be noted that an inspection in November 2005, by the San Luis Obispo County Health Department concluded that the jail met or exceeded the standards for food preparation and handling, sanitation, and nutritional requirements. The inspector mentioned that the facility "...is very clean and well-maintained." Grand jurors reviewed menus for a six-week period and they appeared varied, appetizing, and adequate in both quantity and nutritional content. The cost for food service at the jail is approximately \$1.50 per day, per inmate.

Honor farm inmates also do all of the jail's laundry, farm a small vegetable garden which supplements the food supply, maintain the landscaping around the complex, perform maintenance at the county animal shelter, and repair and refurbish used bicycles which are given to needy children.

Medical care at the jail is provided by four physicians, two psychiatrists and three dentists, all of whom work part-time at the facility. The medical staff also includes a supervising registered nurse, ten registered nurses, and three licensed vocational nurses, along with a mental health coordinator and two mental health therapists. If an inmate requires medical services unavailable at the jail, he or she is transported to a local hospital for treatment.

Drug and alcohol abuse histories are very common among jail inmates, with methamphetamine addiction being the most serious problem. Substance abuse counseling is available, and Alcoholics Anonymous and Narcotics Anonymous meetings are held on a regular basis.

An estimated 20 to 27 percent of the inmates are considered seriously mentally ill, and the cost of psychiatric medications is expected to exceed \$100,000 for the current year. Society would be better served if many of the mentally ill inmates were in proper treatment facilities, but such alternatives are not available. Moreover, this problem exists in virtually all jail and prison systems.

CONCLUSION

Overall, the jail appears to be an efficient and well-managed facility staffed by conscientious and motivated professionals. This opinion is shared by those bodies which regularly inspect the jail to insure compliance with legal mandates. The only negative aspect of its operations relates to the overcrowding issue, about which neither the Sheriff nor his staff can do anything but request funding for needed expansion.

FINDING

The jail is overcrowded, particularly in the women's section, where inmates sleeping on mattresses placed on the floor is a daily occurrence. Plans to expand the women's section appear to have stalled at the design stage for which funds were allotted several years ago.

RECOMMENDATION

The Board of Supervisors should place a high priority on funding the expansion of the women's jail, and construction should begin as soon as possible.

REQUIRED RESPONSES

- ø **The San Luis Obispo County Sheriff's Department, Due 08/30/06 (Finding and Recommendation)**
- ø **The San Luis Obispo County Board of Supervisors, Due 09/30/06 (Finding and Recommendation)**

JUVENILE SERVICES CENTER: “Juvenile Hall”

ORIGIN

On November 15, 2005, members of the San Luis Obispo (SLO) County Grand Jury toured Juvenile Hall as part of their mandate to review prison facilities in the county.

Juvenile Services Center (JSC) located on Highway 1, north of SLO city limits, houses Juvenile Hall, the Juvenile Court, and the offices of Probation staff assigned to work with juvenile offenders. Juvenile Hall is under the direction of the Chief Probation Officer of SLO County.

METHOD

The Grand Jury toured the facility, reviewed the JSC procedural handbook, interviewed Juvenile Hall staff, and observed the minors in their academic and recreation environments.

NARRATIVE

Juvenile Hall currently has a maximum of 45 beds; however, frequently the number of minors exceeds this limit, resulting in youth sleeping on mattresses on the floor. Most of the time the Hall is at or above capacity. A new wing will be built sometime between June and November 2006 for intake purposes. Ground-breaking is delayed due to the fact that there is currently no place to house Juvenile Court during the remodeling.

The youthful offenders, many of whom are in custody due in part to drug and alcohol abuse, reside in three units:

- ø The East unit houses the younger male offenders, usually ages 13-15, as well as the female teens ages 12-18. The teens who commit less serious crimes are in two-bed cells.
- ø The West unit houses the older teens who commit more serious offenses such as sexual and/or violent crimes, and they are assigned to single-bed cells.
- ø The Center unit is used for housing the remaining older male detainees, usually ages 15-18.

For the 2005 calendar year, the population of Juvenile Hall consisted of 54 percent White, 35 percent Hispanic, five percent African-American, and five percent Other. These percentages generally reflect the population of minors in San Luis Obispo County.

Education:

Resident minors are required to attend classes at the Court School in Juvenile Hall from 8am until 2pm. Many of the students have learning problems, and some are diagnosed with learning disabilities. Individualized Education Plans (IEP) meetings are held at the Court School for the learning disabled. A student works individually according to his or her grade level and abilities with one of two certified teachers. Students receive academic credit for their completed work. The school has appropriate textbooks as well as computers for the students' use. All the standard academic subjects are offered as well as courses in art, journaling and creative writing.

Programs:

The "Heeling Touch" program provides dogs from the County Animal Shelter two days a week. Students learn to care for and obedience-train the animals.

Volunteers work with youth in various activities at the Hall. These include art projects and self esteem building exercises. Some youths work in the kitchen learning culinary skills.

Recreation activities include volleyball, basketball and staff-supervised physical exercises in the outdoor sports yards.

Alcoholics and Narcotics Anonymous support groups are offered to the youth. A licensed therapist is available for assessments and counseling.

Staff:

During the regular work week, there are 54-55 employees at Juvenile Hall including correctional staff, teachers, nurses, mental health therapists, and probation supervisors.

Intake:

Minors are arrested and taken to Juvenile Hall by police, sheriff deputies or probation officers for a variety of alleged crimes pending a court hearing. A staff member interviews the minor, and background information including family and school history is gathered. The written rules and expectations of Juvenile Hall are explained and provided to the minor. The minor is allowed the opportunity to make two telephone calls. Should a minor disclose abuse by an adult, staff reports the allegations to Child Welfare Services as required by law. Depending upon the alleged offense, some minors are released under house detention to their parent(s) or legal guardian pending a court hearing. Other minors remain in custody until a court hearing is held. The disposition as to where the minor will reside depends upon the recommendation of the probation department with the court's approval. Some minors may return home under probationary supervision, or go to a foster home or group home, also under supervision. There is a six-month program at the Hall for some detainees, which includes parental participation.

Medical Services:

A staff nurse performs a physical examination of all juveniles within one day of their admission to the hall. A pediatrician is on call when needed, and a psychiatrist is on site two days a week to assess the medication needs of the minors with psychiatric and or emotional disorders.

Facility:

San Luis Obispo County's Juvenile Hall, built in 1981, has a capacity of 45 beds, with a total of 30 actual sleeping rooms. Fifteen are single rooms and fifteen are double rooms. Whenever there are more than 30, minors share a room. For 61 days in the first six months of this fiscal year, capacity (45 minors) has exceeded the number of available beds. Juvenile Services Center is in dire need of expansion since the county's population has increased so dramatically.

There are a great many teen gangs and increased crime committed by minors in SLO County. In 2006, there is expected to be an expansion of the Hall to accommodate the intake area (infrastructure for additional beds).

The county has denied annual requests for additional bed space for the past six years. Without an increase in the capacity of Juvenile Hall, minors may need to be transported and housed in Santa Maria's new Juvenile Hall facility at a high financial cost to San Luis Obispo County. These expenses include payments to Santa Maria's Juvenile Hall, staff time and mileage to transport youth to and from San Luis Obispo County for appointments and court appearances. Additionally, the distance creates a problem for the minors' families to visit and participate in their treatment while incarcerated.

These factors constitute a strong argument for the reconsideration of the priorities in the San Luis Obispo County Major Capital Outlay Program to include an accelerated timeline for construction of additional bed space. The operating expenses spent on moving these minors to Santa Maria could be redirected to other Juvenile Services Center programs or elsewhere to other county programs.

CONCLUSION

Juvenile Hall protects the community from youthful offenders by incarcerating them, and is proactive in rehabilitation programs for the minors. The professional staff appears to be comprised of dedicated and caring individuals who encourage the minors to alter their behavior.

FINDING

The population of minors residing at Juvenile Hall often exceeds capacity. There have been repeated requests for funding to increase the capacity of the Hall, and avoid the increased costs to transport and house minors in another county. (Appendix A: Population Graphs)

RECOMMENDATION

The San Luis Obispo County Board of Supervisors should provide funds to expand the capacity of Juvenile Hall to accommodate the increased number of incarcerated youth.

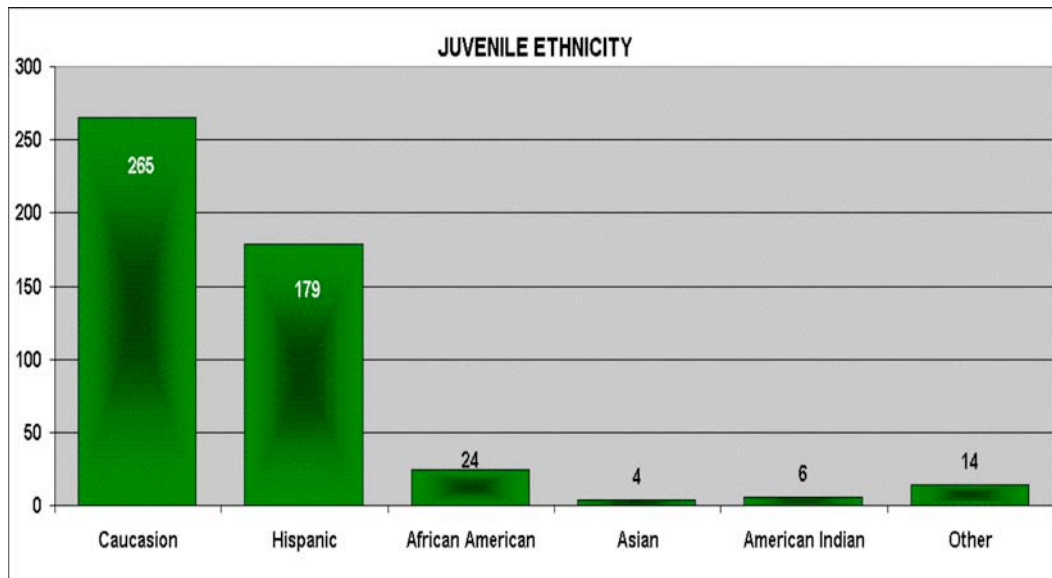
REQUIRED RESPONSES

- **The San Luis Obispo County Probation Department, Due 08/30/06 (Finding and Recommendation)**

- **The San Luis Obispo County Board of Supervisors, Due 09/30/06 (Finding and Recommendation)**

APPENDIX A

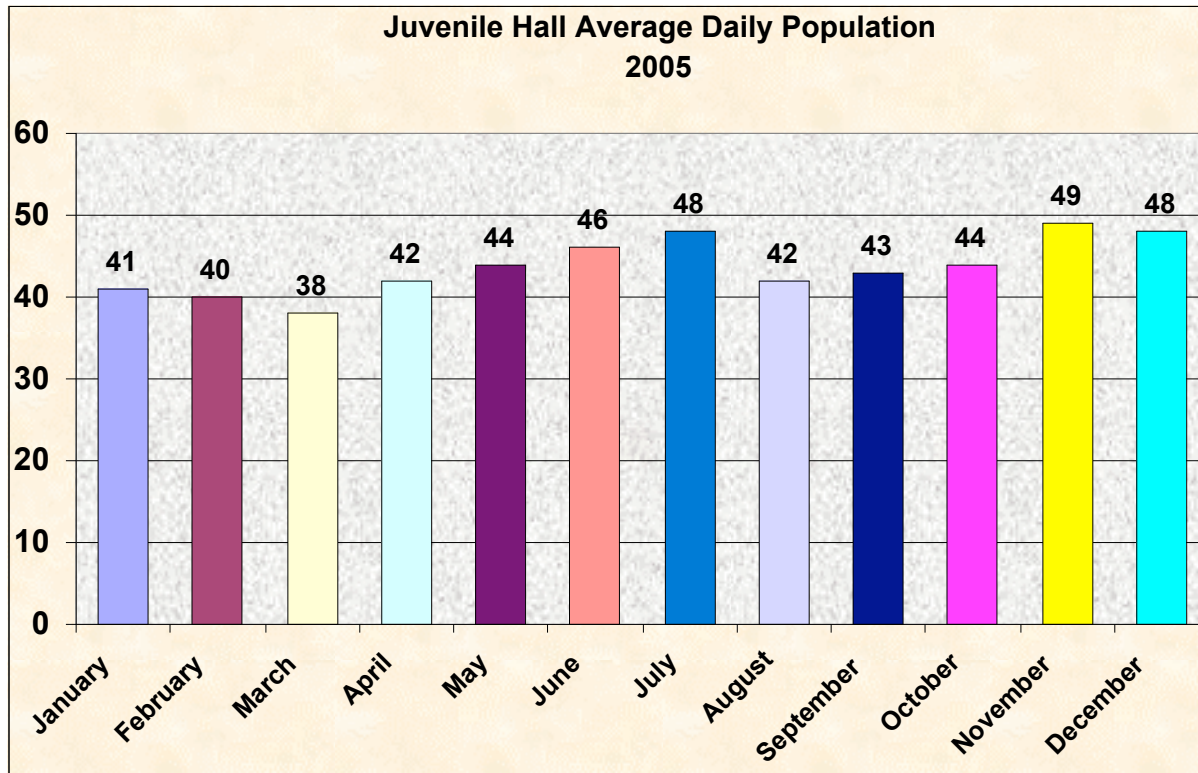
JUVENILE SNAP-SHOT SUMMARY ~ October 1-31, 2005



Juvenile Hall 2005 Daily Average Population

Admissions for the month (average daily)

	2005	AVG TOTAL
January	41	
February	40	
March	38	
April	42	
May	44	
June	46	
July	48	
August	42	
September	43	
October	44	
November	49	
December	48	
	525	43.8



EL PASO DE ROBLES YOUTH CORRECTIONAL FACILITY

The El Paso de Robles Youth Correctional Facility (YCF) is located on Airport Road off Highway 46 in Paso Robles. It is operated by the Division of Juvenile Justice, which is under the California Youth and Adult Correctional Agency. As a result of a statewide reorganization in July of 2005, the Youth and Adult Correctional Agency is now a part of the California Department of Corrections and Rehabilitation.

The facility provides custodial care and treatment for male juvenile offenders who are referred to as “wards.” Their ages range from 13 to 25 years, with the average age being 16.5 years. Wards committed to the institution do not receive determinant (specific) sentences; rather, their release dates are determined by the Youthful Offender Parole Board, and are based on overall behavior and participation in correctional and rehabilitative programs.

METHOD

Members of the grand jury met with the superintendent and senior staff members of the YCF and were provided with an overview of the facility operations, relevant statistical and informational data, and an opportunity to ask questions. We were subsequently given a tour of the housing, medical, educational, and other areas of the institution.

NARRATIVE

We were welcomed to the YCF by the superintendent and the chief of security. Since the last grand jury visit in 2004, new security procedures have been put into effect. We were required to wear a device which emits a signal if activated or triggered by the wearer. The device tracks wearers anywhere in the facility, and if one is activated, officers will immediately respond to that location.

Firearms are not allowed anywhere within the secure area of the facility. The only equipment correctional officers can use are pepper-ball launchers, and then only in extreme circumstances.

The current population of the YCF is 250 to 275 wards. This is down from approximately 900 in 1997. This decrease, common to all Division of Juvenile Justice facilities, is the result of

legislation enacted by the state in 1997, which financially discouraged counties from sending lesser-offending juveniles to state institutions. Under that legislation, juveniles committed to the Division of Juvenile Justice are evaluated according to the seriousness of their offense. They are then designated as category one to seven, with category one being the most serious crime category. A sliding scale determines how much counties must pay the state for housing juvenile offenders. For categories one through four—serious offenders who most probably should be committed to a state facility—counties are charged \$1800 per offender, annually. For category seven (least serious) offenders, however, the charge is \$38,000 annually. This has resulted in counties finding alternative ways of dealing with juveniles who commit minor offenses. Those not incarcerated at the county level may be placed in foster homes, group homes, or diverted to community-based treatment programs.

As a consequence of this legislation, the Department of Juvenile Justice population statewide has decreased from more than 8700 in 1997, to its current level of approximately 3800. Three institutions and two fire camps have been closed.

Consequently, the YCF is underutilized and the resultant operating costs per ward have increased. Additionally, because of the higher-risk status of the current ward population, programs which involved wards working outside the facility, such as community and highway clean-up, landscaping work, and firefighting activities, have been curtailed.

HOUSING

Prior to being assigned to a state correctional institution, wards are processed through one of two state reception centers where they undergo medical, psychological, and educational assessments. Their backgrounds and family histories are also evaluated. Upon arriving at the YCF, each ward is assigned to one of several housing units (cottages) based on the type or severity of his offense, his mental health status, willingness to conform to rules, expected length of confinement, and other criteria. The cottages we toured appeared clean and well maintained.

EDUCATION AND TRAINING

The facility maintains a fully accredited high school program, which must comply with all state requirements, including the high school exit exam. Remedial education and special education classes are also provided, since, at time of commitment, the average educational level of wards in reading and mathematics is fourth to fifth-grade.

Vocational programs include training in food services, cabinetry, construction, landscaping, and janitorial work.

Programs in place to address other needs of the wards include individual and family counseling, gang avoidance, wards' rights, and substance abuse prevention. The wards also participate in an "Interactive Journaling" program. This requires that they make regular entries in workbooks, covering topics such as body image, building healthy relationships, self-esteem, stress and anger management, and ways to enhance physical and mental health. The program is intended to instill a desire to improve behavior.

MEDICAL TREATMENT

The medical staff includes a full time physician, dentist, psychiatrist, and psychologist, in addition to other personnel such as dental assistants, registered nurses, and counselors. Approximately 30 wards per month are subject to random drug testing. Staff members are also tested according to union regulations. The medical staff was very forthcoming and cooperative with the grand jurors, and the offices were clean and orderly. There appears to be a more than adequate number of medical professionals to care for the diminishing population.

CONCLUSION

Because most of the wards confined at the YCF have committed serious crimes, violent incidents have occurred and will inevitably continue to occur. Nevertheless, the staff is taking the necessary steps to maintain a reasonably safe environment for everyone confined within or working at the facility. The primary emphasis, as it must be in any custodial institution, is on security and public safety; however, there appears to be a real commitment toward rehabilitation among both the management and staff of the El Paso de Robles Youth Correctional Facility.

REQUIRED RESPONSES

This is an informational report. No formal response is required.

**2005-2006 San Luis Obispo County Grand Jury Implementation Review
Follow-up to 2002–2003 Grand Jury Recommendations**

Grover Beach Police Department

2002-03 Grand Jury Recommendation	Agency Response	Current Status
Recommendation #1. When DUI arrestee is released to custody of another party, require that party to assume responsibility for arrestee's operation of a vehicle while intoxicated.	Concur with Grand Jury.	Recommendation was implemented.
Recommendation #2. Grover Beach Police Department should seek accreditation from the Commission on Accreditation for Law Enforcement Agencies.	Grover Beach Police Department has requested a Police Officer Standards and Training (POST) audit in lieu of recommendation. POST sets standards in California that are more applicable.	POST completed the requested audit in March 2004 and recommended several improvements, which were fully implemented. Among those improvements was the utilization of an outside provider for legal review and compliance for California policy standards and protocol, management and supervisory personnel have assigned responsibilities for personnel compliance to revised policy manual, continued review of strategic plan, and the department has identified issues for potential law enforcement consolidation strategies.

**2005-2006 San Luis Obispo County Grand Jury Implementation Review
Follow-up to 2002-2003 Grand Jury Recommendations**

Integrated Waste Management		
2002-03 Grand Jury Recommendation	Agency Response	Current Status
Recommendation #1. Integrated Waste Management agency needs a qualified lead staff person to coordinate the solid waste program.	Environmental Health stated that this recommendation <u>would</u> be implemented in the future. The SLO County Board of Supervisors stated that this recommendation <u>might</u> be implemented in the future.	Since the San Luis Obispo County Board of Supervisors decided to withdraw the Solid Waste Local Enforcement Agency designation from the Public Health Department and return the enforcement agency responsibilities to the CIWMB effective July 1, 2004, this recommendation will not be implemented.
Recommendation #2. Environmental Health should work with the State Integrated Waste Management Board to establish procedures for allowing minor permit modifications.	San Luis Obispo County Environmental Health Services and the BOS stated that these recommendations require further analysis and will refer the recommendations to the California Integrated Waste Management Board.	Since the San Luis Obispo County Board of Supervisors decided to withdraw the Solid Waste Local Enforcement Agency designation from the Public Health Department and return the enforcement agency responsibilities to the CIWMB effective July 1, 2004, this recommendation will not be implemented.

**2005-2006 San Luis Obispo County Grand Jury Implementation Review
Follow-up to 2002–2003 Grand Jury Recommendations**

San Luis Obispo County Jail		
2002-03 Grand Jury Recommendation	Agency Response	Current Status
Recommendation #1. At the time of booking, have each inmate sign his or her copy of <i>Inmate Rules</i> .	Both the SLO County Sheriff's Department and BOS declined to implement this recommendation.	N/A
Recommendation #2. Turn off the TV during the hours that exercise yards are open and encourage inmates to participate in educational programs.	Both the SLO County Sheriff's Department and BOS declined to implement this recommendation.	N/A
Recommendation #3. Adopt the policy developed by the Mental Health/Criminal Justice Task Force designed to treat mental problems before, during and after involvement in the criminal justice system.	Both the SLO County Sheriff's Department and the BOS stated that this recommendation requires further analysis.	<p>A formal policy was not adopted. However, law enforcement and the Board recognize the unique situation presented by mentally ill persons who break the law. In response, several steps that implement the intent of the policy have been put in place.</p> <ol style="list-style-type: none"> 1. A training program to help law enforcement personnel recognize mental health issues in persons that are contacted by law enforcement staff was held in early 2006. The intent is to assist law enforcement officers to be better able to deal with the mentally ill and help law enforcement personnel to direct individuals to community resources that provide mental health care. This

		<p>training will be held annually to reach as law enforcement personnel in all jurisdictions.</p> <ol style="list-style-type: none"> 2. A Mental Health Court was begun in the Superior Court to provide a specific venue for mentally ill offenders. The Court works with law enforcement and the Probation Department to address the specific needs of mentally ill offenders. 3. The Probation Department Mentally Ill Probationer program (MIPs) works with mentally ill offenders by providing dedicated Probation staff that provide intensive oversight of a number of mentally ill offenders. Probation staff assists with assuring that people in the program remain on medication, receive counseling services and are afforded the opportunity to be successfully avoid incarceration and substance abuse. The Probation Department also works with juvenile offenders to make available counseling and other services oriented toward assistance with mental health issues. 4. Additional Mental Health staff time has been allocated to the jail to help inmates with mental health issues. 5. The Mental Health Department will be implementing programs pursuant to Proposition 63 that are oriented
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		<p>toward early intervention and prevention. Proposition 63 programs are proposed for funding in FY 2006-2007.</p> <p>The net effect is that more resources and programs are being directed to the individuals who are either in or at risk of becoming involved with criminal justice system.</p>
Recommendation #4. The Department of Mental Health Services should pay for psychotropic medications administered by jail staff.	Both the SLO County Sheriff's Department and BOS declined to implement this recommendation.	N/A
Recommendation #5. Increase inmate visitation time per week.	Both the SLO County Sheriff's Department and BOS declined to implement this recommendation.	N/A
Recommendation #6. Find sources of worthwhile free reading materials.	Concur with Grand Jury.	Recommendation has been implemented.
Recommendation #7. Require the jail chaplain to spend a minimum number of hours per week in the jail and that he/she recruit more volunteers.	Both the SLO County Sheriff's Department and BOS declined to implement this recommendation.	N/A

**2005-2006 San Luis Obispo County Grand Jury Implementation Review
Follow-up to 2002–2003 Grand Jury Recommendations**

Juvenile Court Division Security

2002-03 Grand Jury Recommendation	Agency Response	Current Status
Recommendation #1. The SLO County Probation Department should improve security for the Juvenile Court by providing enhanced and improved security in the lobby of Juvenile Services Center.	The BOS stated that the grand jury recommendation is the responsibility of the Court to implement. Even though the BOS claims that the Court retains overall responsibility for courtroom security, the BOS has partially implemented this grand jury recommendation.	N/A

**2005-2006 San Luis Obispo County Grand Jury Implementation Review
Follow-up to 2002–2003 Grand Jury Recommendations**

RALCCO Recycling Cleanup		
2002-03 Grand Jury Recommendation	Agency Response	Current Status
Recommendation #1. San Luis Obispo County Environmental Health Services should take whatever measures necessary to assure a prompt cleanup of the site.	San Luis Obispo County Environmental Health Services and the BOS will study this grand jury recommendation in detail before committing to implementation.	The property owner took responsibility for cleaning up the site. It was not necessary for the CIWMB to intercede and clean up the site. The property has been completely cleaned up under oversight from the Public Health Department/Environmental Health Services.
Recommendation #2. If RALCCO is unable to comply fully with the California Integrated Waste Management Board's March 2003 cleanup order, the County Environmental Health agency should seek further legal action.	Concur with Grand Jury	Recommendation was implemented.
Recommendation #3. County Environmental Health should make another effort to investigate the allegations that the RALCCO site contains buried drums.	San Luis Obispo County Environmental Health Services and the BOS will study this grand jury recommendation in detail before committing to implementation.	On September 17, 2003, Environmental Health Services received the name of the anonymous informant from the County Administrative Officer who had received the name from the Integrated Waste Management Authority Manager. On October 7, 2003, the Federal Bureau of Investigation (FBI) interviewed the anonymous informant (Letter from FBI on file). Ten years earlier, in approximately 1992 or 1993, the anonymous informant recalled assisting the business owner to bury some general debris. The

		anonymous informant stated he did not see any toxic or hazardous items buried at the site. He stated he saw general debris consisting of garbage, scrap metal and plastic buckets in the buried debris.
Recommendation #4. County Integrated Waste Management Authority should respond to these recommendations if it assumes Environmental Health's responsibilities for regulation of solid waste.	San Luis Obispo County Environmental Health Services and the BOS have declined to implement this grand jury recommendation.	N/A

**2005-2006 San Luis Obispo County Grand Jury Implementation Review
Follow-up to 2002–2003 Grand Jury Recommendations**

San Luis Obispo County Risk Management Division

2002-03 Grand Jury Recommendation	Agency Response	Current Status
Recommendation #1. The Risk Mgt Division should make every attempt to fill the vacant Worker's Compensation Officer and the Safety Officer as soon as possible.	Concur with Grand Jury.	Recommendation has been implemented.
Recommendation #2. The Risk Manager should prepare detailed justification for adding two Administrative Assistant III positions to the RMD.	The Risk Management Division stated that this recommendation would need further analyses to determine if implementation is warranted and feasible.	Risk Management staff concluded that two Administrative Assistant positions were not necessary. Rather, a Human Resources Analyst Aide position was added in 2004 to address Risk Management's most pressing workload needs.
Recommendation #3. Upon approval of the Risk Manager's request, the County Administrator should add one or two Administrative Assistant III positions to the RMD, either recruiting from in house or outside.	The County Administrator stated that this recommendation would need further analyses to determine if implementation is warranted and feasible.	Risk Management staff concluded that two Administrative Assistant positions were not necessary. Rather, a Human Resources Analyst Aide position was added in 2004 to address Risk Management's most pressing workload needs.
Recommendation #4. The County should audit the contract and performance of its current worker's claim processor, using the results to develop a new RFP.	This grand jury recommendation will be implemented.	This recommendation was implemented. As a result of the RFP process, a new third party administrator, Octagon, was selected and started work for the County in May of 2004. Since Octagon has been on board, the County has reduced its Workers' Comp total liabilities from \$27 million to just under \$11 million

<p>Recommendation #5. The County should not award a new worker's claim processor contract based on cost alone. Other factors, such as past contract performance, contractor experience, etc. should have equal weight.</p>	<p>This grand jury recommendation will be implemented.</p>	<p>This recommendation was implemented. Octagon was more costly than other firms interviewed, however, their experience and past performance drove the decision to hire them. As demonstrated by the huge reduction in total liabilities, Octagon has been well worth the expense.</p>
<p>Recommendation #6. The new Risk Manager should implement formal training for key members of the safety committee.</p>	<p>This grand jury recommendation will be implemented.</p>	<p>This recommendation has been implemented. Since coming on board, the Safety Officer has: 1) redesigned the Safety Commission meetings to include a training component at every meeting; 2) implemented a state-of-the-art automated safety program that uses monthly modules to train Commission members on key safety issues; and 3) included funding in the budget to send Commission members to professional training seminars. Please note that the County's OSHA recordable injuries dropped from 214 in 2004 to 139 in 2005. The 139 figure equates to a rate of 5.3 injuries/illnesses per 100 employees. By comparison, the statewide average for local government agencies was 8.6 injuries/illnesses per 100 employees</p>

**2005-2006 San Luis Obispo County Grand Jury Implementation Review
Follow-up to 2002–2003 Grand Jury Recommendations**

San Luis Obispo North County Holding Facilities

2002-03 Grand Jury Recommendation	Agency Response	Current Status
Recommendation #1. The BOS and SLO County Sheriff's Department should add jail and booking facilities to the new authorized Sheriff's sub-station in Templeton.	The SLO County Sheriff's Department and BOS declined to implement this grand jury recommendation.	N/A
Recommendation #2. If the first recommendation cannot be implemented, the BOS and SLO County Sheriff's Department should determine the feasibility of establishing a prisoner shuttle van to various north-county holding facilities.	The SLO County Sheriff's Department and BOS declined to implement this grand jury recommendation.	N/A

**2005-06 San Luis Obispo County Grand Jury Implementation Review
Follow-up to 2003-2004 Grand Jury Recommendations**

El Paso De Robles Youth Correctional Facility

2003-04 Grand Jury Recommendation	Agency Response	Current Status
Recommendation #1. The El Paso de Robles Youth Authority should take advantage of available services to properly dispose of expired medications	Concur with Grand Jury.	Recommendation has been implemented.
Recommendation #2. Pharmaceuticals should be ordered on an as-needed basis and should be expeditiously inventoried and stored	Through consultation with the Department's Chief Medical Officer and Health Care Services division, pharmacy-staffing adjustments have been made and the problem has been remedied.	Recommendation has been implemented.

**2005-06 San Luis Obispo County Grand Jury Implementation Review
FOLLOW-UP TO 2003-04 GRAND JURY RECOMMENDATIONS**

Grover Beach Police Department - Vehicular Manslaughter Case

2003-04 Grand Jury Recommendation	Agency Response	Current Status
PART I – Grover Beach Police Department Investigates		
Recommendation #1. The GBPD should make every reasonable effort to train additional field personnel so that citations may be written at the scene, when appropriate.	All field personnel have been sent to a 40 hour traffic school that enables them to write a citation at a traffic collision scene if appropriate.	N/A
Recommendation #2. In future cases involving death or serious injury, the GBPD should routinely follow up and inquire of the DA as to the status of the case.	This is the first time this has occurred. The DA's office has set up a monitoring system so it will not occur again. Traffic cases often take considerable time to reach a filing state because of their complexity. Our traffic unit will monitor such cases in the future and will make inquiries after a month.	Recommendation was implemented.

PART II – District Attorney’s Office Processing & Victim Witness Handling of the Case Section A – “What went on in the District Attorney’s Office?”		
Recommendation #1 - The DA’s Office should track all cases, starting from the time a file comes to the office, rather than when the deputy files it. [The new <i>Pending Cases (neither filed or rejected)</i> does this tracking now.]	Concur with Grand Jury.	Recommendation was implemented.
Recommendation #2 - Encourage Deputy DAs to seek input of each other and of their superiors regarding problematic and difficult cases.	Concur with Grand Jury.	Recommendation was implemented.
Recommendation 3 - The Grand Jury recognizes that this is a small county and therefore many people in county government know each other. This makes it even more imperative that the DA's Office identifies conflicts early on in their handling of criminal cases.	Concur with Grand Jury.	Recommendation was implemented.
Recommendation 4 - The DA’s Office should substantiate claims of conflict of interest more carefully before referring cases elsewhere.	The recommendation will be partially implemented.	<p>Recommendation 4 of Section A of Part II of the report of the Grand Jury of 2003-04 has been implemented.</p> <p>A Departmental memo was issued to all staff entitled "Early Recognition of Potential Conflicts of Interest". Management staff confer before contacting the Office of the Attorney General to</p>

		discuss potential conflicts of interest. The Assistant District Attorney and Chief Deputy District Attorney contact the Attorney General where the likelihood of a conflict of interest exists, and only after careful consultation between the Attorney General and the District Attorney is a determination reached as to the appropriate prosecution agency.
PART II – District Attorney’s Office Processing & Victim Witness Handling of the Case Section B – “How could ‘shelving’ of the file in the DA’s Office go unnoticed for six months?”		
Recommendation 1 - The Chief Deputy should periodically evaluate the computer programs designed and implemented for tracking high misdemeanor (red dot) cases and the new pending cases, now that such tracking is available.	Concur with Grand Jury.	Recommendation was implemented.
Recommendation 2 - The Chief Deputy DA should exercise closer control/oversight of deputies' caseloads to monitor status of cases.	Concur with Grand Jury.	Recommendation was implemented.
Recommendation 3 - Management should take a more assertive role in supervising employees of the DA's Office and take corrective action when needed.	Concur with Grand Jury.	Recommendation was implemented.

PART II – District Attorney’s Office Processing & Victim Witness Handling of the Case Section C – “How could the Victim Witness Office better assist the family?”		
Recommendation 1 - The director should schedule regular VW Division meetings for discussion of current cases among all advocates.	Concur with Grand Jury.	Recommendation was implemented.

**2005-06 San Luis Obispo County Grand Jury Implementation Review
Follow-up to 2003-04 Grand Jury Recommendations**

San Luis Obispo County Department of Social Services (DSS)

2003-04 Grand Jury Recommendation	Agency Response	Current Status
PART I: Child Welfare Services (CWS) & Suspected Child Abuse Reports (SCARs)		
Recommendation #1. CWS should ensure an immediate phone call is made to the appropriate law enforcement agency when it receives a report of child abuse or severe neglect.	This requires further analysis.	The Department follows a standard protocol for cross-reporting that has been established by the State and has been accepted by the County's various law enforcement jurisdictions.
Recommendation #2. CWS should ensure that SCARs are distributed to the appropriate law enforcement agency and the district attorney. The CWS Desk Guides and internal procedures should be corrected to reflect this.	The recommendation has been implemented in part.	The Department follows a standard protocol for cross-reporting that has been established by the State and has been accepted by the County's various law enforcement jurisdictions. A Desk Guide was adopted on 10/8/04.
Recommendation #3. CWS should complete and forward a written SCAR to the appropriate agencies within 36 hours.	The recommendation requires further analysis.	The Department follows a standard protocol for cross-reporting that has been established by the State and has been accepted by the County's various law enforcement jurisdictions.
Recommendation #4. The law enforcement copy of a SCAR should be forwarded to the correct law enforcement agency.	The recommendation requires further analysis.	The Department follows a standard protocol for cross-reporting that has been established by the State and has been accepted by the County's various law enforcement jurisdictions.

Recommendation # 5. CWS should attach the appropriate copy of the original SCAR form to CWS/CMS Scar forms they distribute to law enforcement and the district attorney.	The recommendation requires further analysis.	The Department follows a standard protocol for cross-reporting that has been established by the State and has been accepted by the County's various law enforcement jurisdictions. Cross-reporting is computerized to ensure legibility and consistency.
Recommendation # 6. CWS should notify mandated reporters of the outcome of the SCARs that they submitted.	Concur with Grand Jury.	Recommendation has been implemented.
Recommendation #7. CWS should take a leadership role in promoting training for mandated reporters.	Concur with Grand Jury.	Recommendation has been implemented.
Recommendation #8. CWS should review agreements on SCAR reporting with all law enforcement agencies within the county to ensure consistent practices and coordination on a regular basis.	The recommendation requires further analysis.	The Department follows a standard protocol for cross-reporting that has been established by the State and has been accepted by the County's various law enforcement jurisdictions. Cross-reporting is computerized to ensure legibility and consistency.
Recommendation #9. County inter-office mail should not be used for delivery of time-sensitive information.	The recommendation will not be implemented.	N/A
PART II: CWS Placement Cases and Issues		
Recommendation #1. CWS should ensure that the positions and documentation from other agencies and professionals who are working with the children are represented in the reports and recommendations that	Concur with Grand Jury.	Recommendation has been implemented.

are submitted to the court regarding those children.		
Recommendation #2. CWS should proactively cooperate with other agencies and professionals working with a child in developing placement plans for the child.	Concur with Grand Jury.	Recommendation has been implemented.
Recommendation #3. The issues and concerns highlighted in multi-agency meetings and discussions regarding children should be represented in documents submitted to the court.	Concur with Grand Jury.	Recommendation has been implemented.
Recommendation #4. CWS social workers should receive basic training in working with developmentally disabled children, including assessment and communication skills.	Concur with Grand Jury.	Recommendation has been implemented.
Recommendation #5. CWS social workers who are interviewing a developmentally disabled child should involve those who are familiar with and have rapport with the child in the interview.	Concur with Grand Jury.	Recommendation has been implemented.
Recommendation #6. A CWS policy should state that the placement of remaining children in a foster home should be re-evaluated when physical harm to a child has occurred in that home	Concur with Grand Jury.	Recommendation has been implemented.
Recommendation #7. CWS should evaluate its use of emergency care shelters in the county to assure that they are being effectively utilized for	Concur with Grand Jury.	Recommendation has been implemented.

their intended purpose.		
Recommendation #8.CWS should provide the names and office information of attorneys appointed to represent children in Juvenile Court to mandated reporters who are actively working with the children.	The recommendation will not be implemented.	N/A
Recommendation #9. Professionals who directly involved with children who are the subjects of CWS and/or Juvenile Court cases should be included under the umbrella of confidentiality in order to receive information that would help them in serving the children	Concur with Grand Jury.	Recommendation was implemented.
Part III: DSS/CWS Organizational Issues		
Recommendation #1. Upper management at CWS should accept responsibility for the dysfunctional work environment at CWS and commit to creating a more worker-friendly professional organization.	Concur with Grand Jury.	Recommendation was implemented.
Recommendation #2. All CWS supervisors and managers should receive training in practices designed to encourage open and trusting communication.	Concur with Grand Jury.	Recommendation was implemented.
Recommendation #3. CWS management should develop and implement practices that will create positive performance feedback and	The recommendation has been implemented in part, and requires further analysis for complete implementation.	The Department has been engaged in revising its Performance Evaluations so that they more accurately reflect performance expectations, plans for meeting expectations

incentives, and reverse the environment of fear and reprisal.		and success in meeting previously-established expectations.
Recommendation # 4 All CWS supervisors and managers should receive training in practices designed to bring about a change in organizational culture that will be conducive to implementing requirements of the Redesign.	Concur with Grand Jury.	Recommendation was implemented.
Recommendation #5. CWS social workers should be provided training in coping with stressful workplaces and the stress related to organizational change	The recommendation requires further analysis.	The Department contracts with Creative Mediation in order to provide additional resources to staff members who are having difficulty coping with organizational changes.
Recommendation #6. CWS management and employees should participate together in training, facilitated by an independent professional trainer, designed to constructively confront the distrust in the workplace and begin a process of team building.	Concur with Grand Jury.	Recommendation was implemented.
Recommendation # 7 Information that is part of a professional knowledge base, such as recognized psychiatric diagnoses, should be available and discussions encouraged at CWS.	Concur with Grand Jury.	Recommendation was implemented.

Management should not remove or disallow this information or curtail discussions.		
Recommendation # 8. CWS should reallocate its training resources to include the following areas for social workers: relevant field training for new social workers, Continuing training for all social workers on an annual basis, training in team participation and team management for social workers and community resources identification, coordination and utilization.	Concur with Grand Jury.	Recommendation was implemented.
Recommendation # 9. Social workers should be involved in discussions of procedures, grant applications and programs that will impact their work and/or resources available to them.	Concur with Grand Jury.	Recommendation was implemented.
Recommendation #10. Social workers assigned to a case should be involved in management decisions that alter any notes, reports or recommendations on that case.	Concur with Grand Jury.	Recommendation was implemented.
Recommendation #11. DSS should develop a protocol that defines appropriate managerial and supervisor use of the CWS/CMS system and information. It should specify that violations of the protocol are grounds for disciplinary action. The protocol should be developed with input from	Concur with Grand Jury.	Recommendation was implemented.

line social workers and should be disseminated throughout CWS when it is complete.		
Recommendation #12. CWS management should engage social workers in discussions of the appropriate use of group home placements and the assessment of the need for group homes for children in the CWS system. These discussions should include consideration of reinstating some group homes in the county.	The recommendation will not be implemented because it is not warranted and it is not reasonable.	N/A

**2005-06 San Luis Obispo County Grand Jury Implementation Review
Follow-up to 2003-04 Grand Jury Recommendations**

San Luis Obispo County Public Works

2003-04 Grand Jury Recommendation	Agency Response	Current Status
<p>Recommendation #1. The GJ recommends that the County Board of Supervisors establish citizens' committee to meet with the appropriate congressional representatives to obtain their assistance in directing the Corps of Engineers to immediately undertake a flood control remediation project to resolve the Arroyo Grande Creek channel flooding problems.</p>	<p>The recommendation will not be implemented because, while the recommendation is well-intended, it is neither reasonable, nor warranted. The fallacies in the report recommendation are (1) the Corps has no program or funding for taking over local flood control project maintenance; and (2) elected representatives have no authority to direct the actions of any federal agency. <i>(See full text of response on grand jury web site.)</i></p>	<p>N/A</p>